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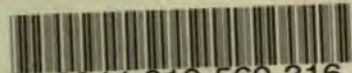
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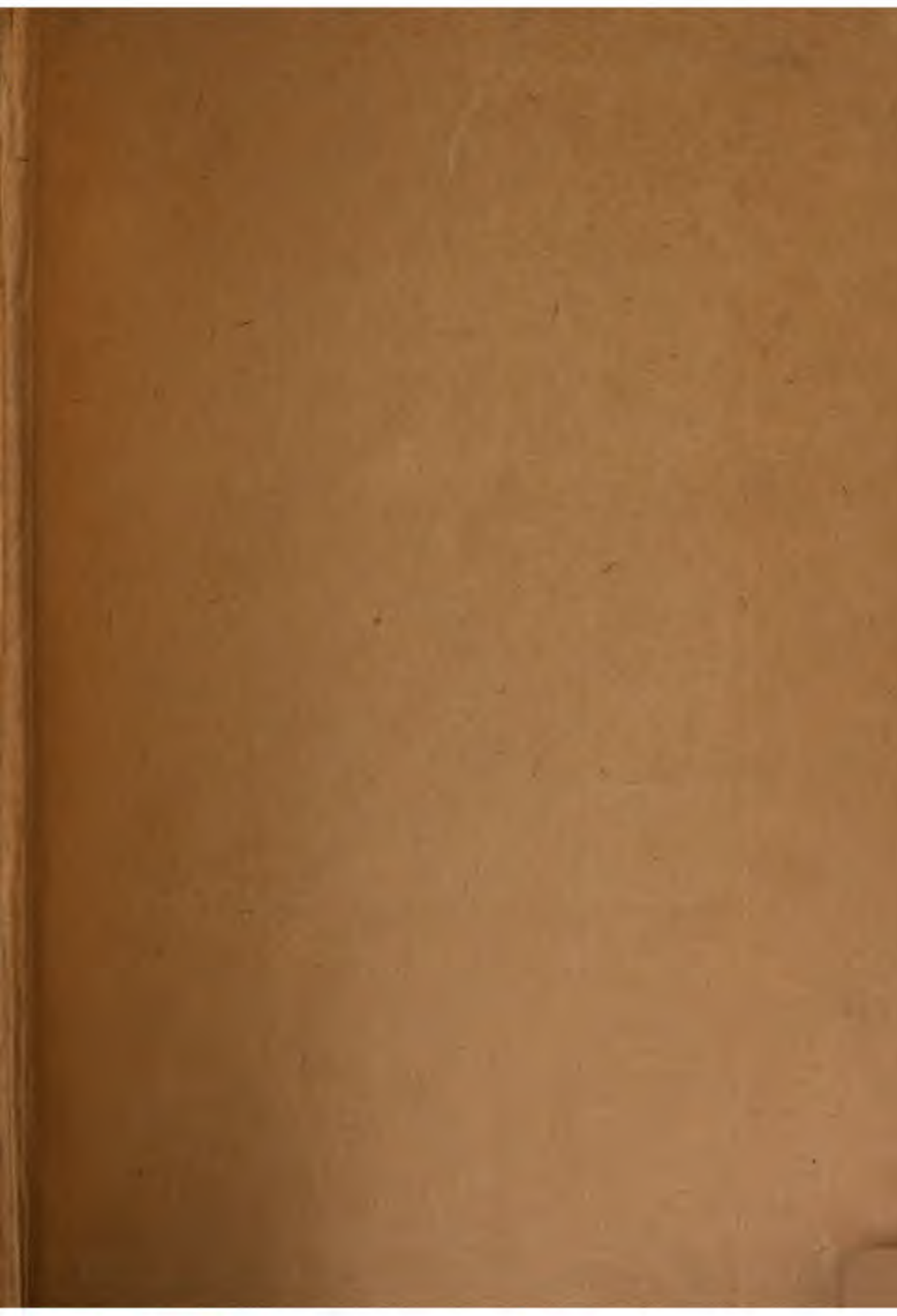
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THE
STATUTES AT LARGE

OF

SOUTH CAROLINA;

EDITED, UNDER AUTHORITY OF THE LEGISLATURE,

BY

THOMAS COOPER, M. D.—L. L. D.



VOLUME SECOND,
CONTAINING THE ACTS FROM 1682 TO 1716, INCLUSIVE,
ARRANGED CHRONOLOGICALLY.



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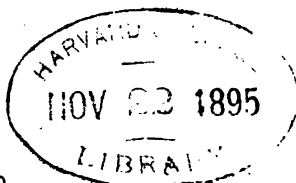
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ADVERTISEMENT CONCERNING THE NUMBERING OF THE ACTS.

THE original manuscript *Public Acts*, are numbered for many years in regular succession, in red ink; but there are occasional omissions and interruptions in the series of the numbers. The *Private Acts* are numbered separately; and for some years a class was made of *Temporary Acts* (T. A.) not regularly continued; these also were separately numbered. From the year 1719, the numbering ceases;—the last number of the public Acts is 390, on the manuscript original. The numbers adopted by Chief Justice Trott, in his folio collection of the Laws of South Carolina, 1736, follow the original manuscripts so far as No. 181, or to the year 1700-1, page 85 of Trott's Laws. Judge Grimke in his collection of the Public Laws of South Carolina (quarto, 1790) pursues the original numbering so far as No. 185, A. D. 1700-1. Thenceforward the two collectors neither agree with the original manuscripts nor with each other. Judge Grimke's collection of the Public Laws commences with No. 111, A. D. 1694, omitting all the previous Acts; and he proceeds, but with so many omissions of Acts and sections and paragraphs, without laying before his reader satisfactory authority for these omissions, that his work cannot be regarded as authority. The able digest of Judge Brevard, is too much of an abridgement to be satisfactory to an accurate lawyer. Hence the necessity of laying before the public a collection that shall really fulfil the title of *The Statutes at Large of South Carolina*, as the only satisfactory basis for the reasonings of the Court and the Bar, and for the future operations of the Legislature in altering, amending improving, or condensing the Statute Law of the State, as it now imperfectly and confusedly exists.

The original manuscript Acts, when I have done with them, I shall deposit in the Secretary's office; and to render them checks on the accuracy of the present publication, I have rejected the numbers of Trott and Grimke, and followed in that respect, and in all possible cases, the numbering of the original Acts. But these numbers are not always to be found on the Acts that exist; and so many of the older Acts in manuscript, are lost, destroyed, defaced, or mutilated, from various accidents, that the numbering adopted in the present edition, must be of necessity in many cases conjectural. In such cases, I have carefully looked over the series of Acts of the session, and then consulting the previous numbers of the original Acts, and the discrepant

arrangements of Trott and Grimke, I have assigned the number wanting, upon a careful consideration of the best evidence the nature of the case afforded me. The class of *Temporary Acts* (T. A.) being numbered separately, renders an uniform and regularly consecutive system of numbering impossible to be adhered to throughout. The temporary Acts are also public Acts, but they are neither classed or numbered as public Acts. In fact, in the early period of our legislation, nine-tenths of all our public Acts were temporary; very few of them being enacted for more than two years, which period was afterwards extended (if deemed expedient) by continuing and reviving Acts. Wherever the introduction of temporary Acts has created an unavoidable anomaly in the numbering, it is noticed: so that the consultation of the original manuscripts, where they exist, will be easy to those who wish to avail themselves of the Acts deposited. Many of the Acts included in the series of Trott and Grimke, are contained in the first volume of this edition.

The present edition of the *STATUTES AT LARGE*, will doubtless contain many Acts that have been repealed, which have expired, or become obsolete, and therefore in a great measure useless. Let this be determined by the only competent authority, the Legislature. To the history of our legislation, a collection like the present is absolutely necessary. Nor ought any compiler to exercise without authority a legislative function, however plain the case may be.

The original manuscript Acts have no marginal summaries to the sections; where these are wanting, I have supplied them.

An Ordinance of the Assembly, of September 21, 1721, numbered 455 in this edition, directed a committee to be appointed to revise the laws; and contemplated the possibility of the work not being completed within one year. It appears from Trott's collection, p. 382, that the whole number of Acts that had then been passed, was 471. Of the proceedings of this committee, if any took place, no record remains. One hundred and sixteen years have now passed since that committee was raised. It was appointed to act on the legislation of thirty-eight years, when the infancy of the Colony, under the English laws, required but few additions. The public laws to the period of the Constitution in 1790, amount to sixteen hundred. The number of public Acts from 1790 to 1836, are about one thousand.

THOMAS COOPER, Editor.

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- 2 An Act for the suppression of Idle, Drunken and Swearing Persons, inhabiting within this Province. May 26, 1682. Confirmed by Act No. 98.
- 3 An Act for Highways. May 26, 1682.
- 4 An Act for settling the Militia. May 26, 1682.
- 5 An Act for raising a Tax of £400, or the value thereof, for defraying the publick charges of this Province. June 8, 1682.
1683. 6 An Act to suspend prosecution for foreign debts. September 25, 1683.
- 7 An Act inhibiting the Trading with Servants or Slaves. Sept. 25, 1683. Quere, if this ought not to be 1683? See Nos. 34, 60, 81, 135.
- 8 An Act for raising the value of Forraign Coyn. Sept. 25, 1683. (Qu. 1683?)
- 9 An Act for the Tryall of Small and Mean Causes, under 40s. Sept. 25, 1683. See No. 38, 43, 55, 88.
- 10 An Act for Servants arriving without indentures or contracts. See Acts No. 28, 40.
- 11 An Act concerning the Highways. Sept. 25, 1683.
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- 15 An Act for damage of Protested Bills of Exchange. Sept. 25, 1683. See No. 28.
- 16 An Act for regulating the Surveyor General's fees. Sept. 26, 1683. To continue during the time that Maurice Matthews is Surveyor General.
- 17 An Act for ascertaining Public Officers Fees. Sept. 25, 1683. For 23 months.
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- 19 An Act to prevent Runaways. Nov. 7, 1683. See Act No. 28, 188.
1685. 20 An Act for settling the Militia. April 11, 1685.
- 21 An Act for the raising of £500 sterling, besides the Assessors' particular assessments, for the dofraying the public charges of this Province. April 11, 1685.
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ACTS OF THE PARLIAMENT AND GENERAL ASSEMBLY OF SOUTH CAROLINA, OF A MUNICIPAL CHARACTER.

PREFATORY OBSERVATIONS.

The collections of the Public Laws of South Carolina, are—

1st. That of Chief Justice Trott, in folio, 1736; commencing with Act No. 86, October 15th, 1692, and ending with Act of 30th May, 1734. The last act inserted in full, is one of the 9th April, 1734.

2nd. The Public Laws of South Carolina, edited by John Faucheraud Grimke, Esq. 4to, July, 1790. Commencing 1694 and ending January, 1790.

3d. The alphabetical Digest of the Public Law of South Carolina, in 3 vols. 8vo. 1814, by the honorable Judge Joseph Brevard.

Neither of these collections gives the respective Acts full and complete. The Compilers have rejected the Laws and parts of Laws which they found to have been repealed, or which they considered as obsolete. A work fulfilling the title of the *Statutes at Large*, remains therefore a desideratum. The present Editor has proposed to publish such a collection, as completely as the existing materials will permit.

The original Acts from No. 1, to No. 22, are not now to be found. They extend from 1682 to 1685. Some of the others are so obscure from age, from dampness, or in other respects so mutilated, as not to be every where legible. In copying them, the Editor has avoided inserting any words from mere inference or conjecture, although he has occasionally made out a dubious passage by collation. Where he has been compelled to omit a few words from defect in the manuscript, he has substituted asterisks.—* * *

The remarks of Chief Justice Trott, and Judge Grimke, on the various acts and sections of acts, as being obsolete or otherwise, are preserved. They are to be regarded and respected as the opinions of able and learned Judges, deliberately formed on a purview of the acts in their connection; but not as authority to render any act obsolete which the legislature has not thought fit to repeal. That authority is (in the opinion of the present Editor) not to be conceded even to the decisions of the judicial bench. It would be desirable, if the Judges of the Appeal Court were to report annually to the Legislature such defects and alterations in the Statute Law, as the practical experience of those

Judges might point out as deserving of legislative notice. This would in time, take away the temptation to judicial legislation, which under existing circumstances it is not easy to avoid.

The attestations of the Governor and other public functionaries by whom the acts are signed, are accompanied in the original manuscripts by their seals; which, of course, are here omitted. It seemed useless to the Editor to repeat the L. S. (*Locus Sigilli*) after every name.

The Editor submitted to the Judiciary Committee of 1835, the propriety of inserting all the acts from 1682 to 1694 of which the original manuscripts could be found in a legible state. That committee recommended their insertion; and properly, as the collection would not fulfil the title it assumes, if they were purposely omitted. But as these laws may be considered as obsolete, or repealed, or superceded in great part, if not altogether, by subsequent legislation, the Editor has commenced his series of notes and references at the period which the members of the profession have been in the habit of regarding as introducing the laws actually in force, viz, 1694, when Grimke's collection commences.

The notes and references are principally confined to the decisions that have taken place in the Courts of our own State.

The acts are numbered in conformity with the red ink numbering of the public laws, in the original manuscripts, so far as that system of numbering regularly extends. They are then numbered in the order of their insertion in this work, without regard to the numbers adopted by Trott and Grimke, which neither conform regularly to each other, or to the numbers in the original Acts. As this work will probably supercede the labours of those Editors, the numbers are adapted to the present edition. Where the original acts are not to be found, either the acts themselves or their titles are supplied from Trott.

The omissions of sections and parts of acts, perpetually occurring in the Collections of Trott and Grimke, are supplied as far as possible from the original manuscript acts.

In conformity to the plan of the work, submitted to the legislature, and approved by the report of the Judiciary Committee, (adopted 1835) the following classes of Acts are reserved for the concluding volume; the titles and numbers of them only, are inserted in the present.

Acts of Supplies and Appropriations.

Acts relating to Highways, Roads, Rivers, Bridges, Canals, Rail Roads.

Acts relating to incorporated Societies.

Acts relating to the City of Charleston.

Acts relating to Militia, Cavalry, Artillery, and Volunteer Companies.

Acts relating to the coloured population of this State.

Acts for establishing Circuits and Courts of every description.

EDITOR.

A. D. 1685.

AN ACT FOR THE SETTLING OF A PILOT, APRIL 11th, 1685.

No. 22.

(This Act is so defaced and torn as to be illegible.)

This Act is the first in order of time of the manuscript Acts now remaining.

At a Parliament holden at Charlestowne for that parte of the Province of Carolina, which lyeth Southward and Westward of Cape Fear. Begun the third day of March, in the yeare of our Lord Christ, one thousand six hundred eighty and four, and in the thirtyseaventh yeare of the reign of our Sovereign Lord, Charles the second, by the Grace of God, King of England, Scotland, France and Ireland, Defender of the faith, &c.

AN ACT, ASCERTAINING THE GOVERNOUR'S FEES.

No. 23.

Be it enacted by his Excellency William Earle of Craven, Palatine, the true and absolute Lords and Proprietors of the said Province, and by the Commons of the same, assembled in Parliament, and it is enacted by the authority of the same, that the Governour for the tyme being of this Province shall demand and receive the severall fees hereunder mentioned, viz.

<i>Imprimis,</i>	L.	S.	D.	Fees ascertained
For signing a Vessel's despatch.	0.	5.	0	
For signing every License to sell Wine.	5.	0.	0	
For signing a License to sell Punch or other Liquors.	3.	0.	0	
For signing a letter testimoniall.	0.	10.	0	
For signing every writ or warrant in the Admiralty Court.	0.	5.	0	
For signing a License for marriage.	0.	10.	0	
For signing every warrant of contempt of the Admiralty.	1.	0.	0	
For signing a warrant of appraisement.	0.	2.	6	
For signing a letter of administration.	0.	5.	0	
For signing a probate of a will.	0.	5.	0	

Provided always, That this Act and all the matters therein contained, *Provided.* by the authority of this present Parliament, are enacted to continue in force for the space of twenty three monthes from the ratification of the same, and noe longer.

*Read three tymes and rutified in open Parliament, this
eleventh day of April, A. D. 1685.*

JOHN BOONE

ROBT. QUARRY,
MATT. MATTHEWS,
PAULL GRIMBALL,
STE. BULL,
JOSEPH WEST,
JOHN MOORE,
JOHN GODFREY.

A. D. 1684

At a Parliament holden at Charlestown, for that parte of the Province of Carolina, that lyeth Southward and Westward of Cape Fear, Begun the third day of March, in the year of our Lord Christ, one thousand six hundred eighty and four, and in the thirty seaventh year of the reign of our Sovereign Lord King Charles the second, by the Grace of God, King of England, Scotland, France and Ireland, Defender of the faith, &c.

No. 24. AN ACT FOR THE ASCERTAINING THE FEES OF THE SURVEYOR GENERALL, CLARKE OF THE PEACE AND CROWN, CORONER, AND OF THE CLARKE OF THE PARLIAMENT.

Preamble.

WHEREAS, it is thought necessary and convenient, that tables of fees be regulated for the Surveyor Generall, Clarke of the Crown and Peace, the Coroner and Clarke of the Parliament, the want of which may be prejudicall to diverse inhabitants of this Province; for the prevention whereof, and that the people may not be abused and oppressed with unreasonable burthens and exactions, and that certain rules may be given to the said officers for their demands of reward, for their service and attendance, *Be it enacted* by his Excellency William Earle of Craven, Palatine, the true and absolute Lords and Proprietors of the said Province, and by the Commons of the same, now assembled in Parliament, AND IT IS ENACTED by the authority of the same, that the particulars of the said officers fees, hereunder sett down, shall be the positive and indisputable rule whereby every of the said officers shall demand and receive their fees for execution of every severall business or matter belonging to their severall and respective offices, and that the said Surveyor General, Clarke of the Peace and Crown, Coroner, and the Clarke of the Parliament, shall not demand of any person or persons greater fees than are mentioned and sett down in the said annexed tables.

Enactment.

Officers to abide by the table of fees in all cases.

Penalty for taking more than due fees.

II. And if the said officers or any of them, or any under any of them, shall upon what pretext soever, demand and receive of any person or persons greater fees and rewards than are appointed and sett down in this Act, being duly convicted thereof, before any two members of the Grand Council, shall for every penny soe received by him or them, pay one shilling to the person or persons of whom the said officer or officers, or any person under him or them, shall soe demand and receive the same, and be lyable to such fine or fines as the Grand Council shall think fitting to impose, the same not exceeding fifty pounds sterling.

Officers to keep tables of fees.

III. *And it is further enacted* by the authority aforesaid, that the said Surveyor Generall, Clarke of the Crown and Peace, Coroner and Clarke of the Parliament, doe forthwith after the ratification and publication of this Act, sett upp and constantly keep tables of the fees belonging to their respective offices, and upon default, to be fineable at the discretion of the Grand Council or any two of them.

How fees are to be paid.

IV. *And be it enacted* by the authority aforesaid, that all and every person and persons whatsoever, in Charlestown, and within the said Province, shall pay unto the said Officers or those under them, such fees as shall be due to the said Officers or their deputies from them, in current money in Charlestown, or in corn after the rate of two shillings per bushell, pease after the rate of two shillings and six pence.

per bushell, porke at twenty shillings sterling per neat hundred, beef at sixteen shillings per neat hundred, and tarr, with its cask, at the rate of eight shillings per barrrell. A. D. 1693.

THE SURVEYOR GENERALL'S FEES.

For running out any quantity of land, by common or special warrant, be the quantity more or less, per acre one penny.	L.	S.	D.
	0	0	1
For a faire plat, a reccord of that plat, a certificate returnable by warrant, and a reccord of that certificate, twelve shillings and six pence.	0.	12.	6
For a copy of that plat, and the search attested if the originall be lost.	0.	5.	0
For recording of lands.	0.	2.	6
For a certificate of any lines of lands, or otherwise, upon difference between any persons, the said certificate having the field work thereunto annexed, excepting town lotts, tenn shillings.	L.	S.	D.
	0.	10	0
For running out a town lott with a plat, and certificate and recording of both, fifteen shillings.	0.	15.	0
For any person that shall employ the Surveyor, and that the Surveyor be hindered to do the work desired, whereof the Surveyor is not the cause, in such case the Surveyor shall have tenn shillings per diem.	0.	10.	0
For running out any lines between party and party, tenn shillings per diem, or other work wherein the Surveyor is employed per diem.	0.	10.	0

FEES,

BELONGING TO THE CLARKE OF THE CROWN AND THE CLARKE OF THE PEACE.

For reading a petition or any other writing, one shilling and three pence.	L.	S.	D.
	0.	1.	3
For entering an order thereupon, one shilling and three pence.	0.	1.	3
For a copy of the said order, one shilling three pence.	0.	1.	3
For filing a petition or other writing.	0.	1.	0
For a commitment, halfe a crown.	0.	2.	6
For a release, halfe a crown.	0.	2.	6
For any record.	0.	2.	6
For a copy of a record.	0.	2.	6
For a mittimus, halfe a crown.	0.	2.	6
For a license at a Sessions to sell beer or punch, or for any other license granted.	0.	10.	0
For a bond at a Sessions to keep good order, or by those that are licensed to sell liquors, or for any other bond, two shillings and six pence.	0.	2.	6
For a warrant of contempt, two shillings and six pence.	0.	2.	6
For any other warrant.	0.	1.	6
For a recognisance, two shillings and six pence.	0.	2.	6
For withdrawing a recognisance, halfe a crown.	0.	2.	6
For a hue and crye, halfe a crown.	0.	2.	6
For an order to keep a bastard child, five shillings.	0.	5.	0

STATUTES AT LARGE

A. D. 1686.

	L.	S.	D.
For a writ of restitution, five shillings.	0.	5.	0
For every person indicted or presented, tenn shillings.	0.	10.	0
For an arraignment, traverse, or release, and for every one quitt by proclamation.	0.	5.	0
For a warrant of distress, halfe a crown.	0.	2.	6
For entering every plea.	0.	2.	6
For attending to Sessions, to be paid out of the fines and americiaments, each day during the sessions.	0.	10.	0
For the record of any cause removed by certiorari, or habeas corpus, into any other court, and the returne.	0.	10.	0

THE CLARKE OF THE PARLIAMENT'S FEES.

	L.	S.	D.
For every faire copy of an Act of Parliament.	0.	5.	0
For any Act of Parliament upon any particular person or person's Motion or Interest, forty shillings.	2.	0.	0

THE CORONERS FEES.

For every inquisition, sub visu corporis.	3.	0	0
To the Jury.	0.	12.	0
For serving each processe of arrest.	0.	5.	0
For mileage, each mile.	0.	0.	3

Proviso.

Provided always, And it is by the authority aforesaid enacted, that in case the deceased body, (upon view of which the Coroners inquisition is taken,) shall be found to be the deceased body of any late servant to any person in this province, or appear that the deceased at the tyme of his death, had noe effects or estate in any kind sufficient wherewith to defray the said fees of three pounds and twelve shillings, then such person or persons, who shall send for the Coroner to view the said body in order to its buriall, shall not be charged with, or lyable to pay the said Coroner the said fee of three pounds; nor to pay to the said Jury the said fee of twelve shillings; but in such case the said Coroner in lieu of the said fees of three pounds and twelve shillings, shall and may receive of the county, where such body as aforesaid, shall or may be viewed, the sum of twenty shillings sterling only.

Continuance of this act.

Provided also, That this Act, and all the matters therein contained, by the authority of this present Parliament, are enacted to continue in force the space of twenty-three months from the ratification of the same, and noe longer.

Read three tymes and ratified in open Parliament, this eleventh day of April, A. D. 1685.

JOHN BOONE.

JOSEPH WEST,
JNO. MOORE,
JOHN GODFREY,
ROBT. QUARRY,
MATTHEW MATTHEWS,
PAULL GRIMBALL,
STE. BULL,

A. D. 1685.

**AN ACT FOR THE CLEANING THE LOTS AND STREETES OF CHARLES-
TOWN, AND FOR THE SETTLEMENT AND REGULATION OF A NIGHT-WATCH
IN THE SAID TOWN. (See last volume.)**

No. 25.

At the Parliament begun and holden at Charlestown, for that parte of the Province of Carolina, that lyeth Southward and Westward of Cape Fear, on the nyineteenth day of November, in the year of our Lord Christ, one thousand six hundred eighty and five. And in the first year of the reign of our Sovereign Lord, James the second, by the Grace of God, King of England, Scotland, France and Ireland, Defender of the Faith, &c.

AN ACT FOR THE RESTRAINING AND PUNISHING PRIVATEERS.

No. 26.

WHEREAS, nothing can more contribute to his sacred Majestie's ^{Preamble.} honour and the peace and quiet of this Colony, than that such articles as are agreed and concluded on, in all treaties of peace, should be most inviolably preserved and kept in and over all his dominions and territories. And whereas, not only against such treaties of peace made by his Majestie with his Allies, but alsoe contrary to his Majestie's Royal Proclamation, severall of his subjects have, and do continually goe from other English Colonies, and may hereafter from this Colony, into the service of foreign princes, and saile under their comissions, contrary to their duty and good allegiance, and by faire means cannot be restrained from soe doing, *Be it therefore enacted*, by the Palatine and the rest of the true and absolute Lords and Proprietors of this Province, by and with the ^{Enactment.} advice of the nobility and comons in this Parliament assembled, that from and after the publication hereof, it shall be felony for any person whose now doth, or within foure yeares last past heretofore hath, or hereafter shall inhabit, or belong to that part of the Province of Carolina, which lyes from Cape Fear, south and west, to serve in America in an hostile manner under any foreign Prince, State or Potentate, or any employed under any of them, against any other foreign Prince, State or Potentate, in amity with his Majestie, without special license for so doing, under the hand and seal of the Governour or Comander in Chief of this Province for the tyme being, and that all and every such offender or offenders, contrary to the true intent of this Act, being thereof duely convicted in the Chief Justices Court, or in any of the County Courts, within the said parte of this Province, to which Courts authority is hereby given to heare and determine the same, as in other cases of felony, shall suffer the ^{That it shall be felony for any one to serve in a hostile manner against America.} paines of death without the benefit of clergy. ✓

II. Provided nevertheless, That this act nor any thing therein contain- ^{Proviso.} ed, shall extend to any person or persons which now are, or have been in the service and imployment of any foreign Prince, State, or Potentate whatsoever, that shall returne to this Province and leave and deserte such service and imployment, before the twentieth day of January next ensuing, rendering themselves to the Governour or Comander in Chief for the tyme being, and giving him such security as he shall appoint for their future good behaviour, and also that he or they shall not departe this Province without the Governours leave. ✓

III. And for the better and more speedy execution of Justice upon ^{Preamble.}

A. D. 1685.

Commissions to be granted to proper persons to try all such offences.

such who having committed treasons, pyracies, felonies and other offences upon the sea, shall be apprehended in, or brought prisoners to this Province, *Be it further enacted* by the authority aforesaid, that all treasons, pyracies, felonies, robberies, murders, or confederacies, committed, or that hereafter shall be committed upon the sea, or in any haven, creek or bay, where by the laws of England the Admirall hath Jurisdiction, shall be inquired, tryed, heard, determined and judged within this Province, in such like forme as if such offences had been committed in and upon the land; and to that end and purpose commissions shall be had under the great seal of the Province for the tyme being, directed to the Admirall of the Province or his Deputy, and such other substantial persons, as by the Governour or Comander in Chief of this Province, and the Lords Proprietors or their deputies for the tyme being, shall be named or appointed, which said commissions or such a quorum of them as by such commission shall be thereunto authorised, shall have full power to doe all things in and about the inquiry, hearing and determining, adjudging and punishing any of the crimes and offences aforesaid, as any Commissioner to be appointed under the greates seale of England, by virtue of a statute, made the twenty eighth yeare of the Reigne of King Henry the Eighth, are impowered to doe and execute within the Kingdom of England. And that the said offenders, which are, or shall be apprehended in or brought prisoners to this Province, shall be lyable to such orders, processe, judgements and execution, by virtue of such commission to be grounded upon this Act, as might be awarded or given against them, if they were proceeded against in the Realme of England by virtue of any commission grounded upon the said statute.

Indemnity to all persons heretofore having sat in judgement against them.

IV. And all tryalls heretofore had against such criminall or criminalls, before any Judge or Judges, by virtue of such authority or commission at any time heretofore granted, and all proceedings thereupon, are hereby ratified, confirmed and adjudged lawfull, and all such Judges, with all and every the inferior officers that have acted thereby, are hereby indemnified to all intents and purposes whatsoever; and in case they or any of them, shall at any time hereafter be sued, vexed, molested or troubled for any such their proceedings as aforesaid, he or they soe sued, vexed, or molested, shall plead the General issue and give this Act in Evidence, any Law, Statute, Custome or Usage to the contrary in any wise notwithstanding.

Penalty for not endeavouring to apprehend such persons.

V. *And be it further enacted* by the authority aforesaid, that all and every person or persons, that shall knowingly in any way entertain, harbor, conceale, trade, or hold any correspondence by letter or otherwise, with any person or persons, that shall be deemed and adjudged to be Privateers, Pirates, or other offenders within the construction of this Act, and that shall not readily indeavour to the best of his or their power, to apprehend, or to cause to be apprehended, such offender or offenders, shall be lyable to be prosecuted as accessory and confederates, and to suffer such paines and penalties as in such case by law is provided, and for the better and more effectual execution of this Act.

Officers of precincts to levy armed men to take such persons where they hear of them in their precincts.

VI. *And be it further enacted* by the authority aforesaid, that all commission officers in their severall precincts, within the said parte of the Province aforesaid, are hereby impowered and required, upon either their own knowledge, or notice given that any privateers, pirates or other persons suspected to be upon any unlawful designe, are in any place within their respective precincts, to raise and levy such number of

well armed men, as he or they shall think needfull for the seizing, apprehending and carrying to Goal, all and every such persons; and in case of any resistance or refusall to yield obedience to his Majestie's authority, it shall be lawfull to kill and destroye such person or persons; and all and every person or persons that shall oppose or resist, by striking or firing upon any comanded partyes, shall be deemed, taken and adjudged as felons without benefit of clergy; and every such officer that shall omit or neglect his duty herein, shall forfeit the sum of fifty punds current money of this Province for every such offence, to be recovered in any of the Courts of Record within this Province, by plaint or information, wherein no essoign, wager of law, or protection shall be allowed: one moyety whereof to be to the Palatine and Lords Proprietors, their heirs and successors, for and towards the support of the Government of this Province, and the contingent charges thereof, and the other moyety to the informer. And all and every person or persons that upon orders given him or them, shall refuse to repaire immediately with his or their arms well fixed, and amunition, to such place or places as shall be appoynted by the said officer, and not readily obey his commands in the execution of the premises, shall be lyable to such fine or corporall punishment, as by the Grand Counsell shall be thought fit.

A. D. 1688.

*Read three tymes and ratified in open Parliament, this
23d. of November, 1685.*

JOSEPH MORTON,
ROBT. QUARRY,
JOHN GODFREY,
PAULL GRIMBALL,
STE. BULL,
JOSEPH MORTON, Jr.
JOHN FARR.
WILL. DUNLOP.

At the Parliament begun and holden at Charlestowne, for that parte of the Province of Carolina, that lyeth Southward and Westward of Cape Feare, in the yeare of our Lord Christ, one thousand six hundred eighty and five, and in the first yeare of the reigne of our Sovereign Lord King James the second, by the Grace of God, King of England, Scotland, France and Ireland, Defender of the faith, &c.

AN ACT FOR THE BETTER SECURITY OF THAT PARTE OF THE PROVINCE OF CAROLINA, THAT LYETH SOUTHWARD AND WESTWARD OF CAPE FEARE, AGAINST ANY HOSTILE INVASIONS AND ATTEMPTS BY SEA OR LAND, WHICH THE NEIGHBOURING SPANIARD OR OTHER ENEMY MAY MAKE UPON THE SAME.—

No. 27.

WHEREAS the said parte of this Province of Carolina, which lyeth as aforesaid, to the South and Westward of Cape Feare, now being, (to God be praise) in a very thriving and hopeful condition, considering the small tyme since the first settlement thereof. Nevertheless diverse enemies to the peace and good weal of the same, and the honor of his most sacred Majestie, and the good Government therein established, envying the prosperity thereof, threaten after the manner of enemies, pyrates and robbers, to enter upon and to make spoil of this settlement, to the utter

Preamble.

A. D. 1693.

Enactment.

Officers to
complete their
rolls.Watch-houses
to be erected.Officers to meet
in Charlestown
to consult.To advise with
the inhabitants
of Port Royal,
concerning the
watch-house to
be built there.Overseers
appointed to
direct the work.Money, how to
be supplied.

ruin thereof, and hazard of our lives; to the end therefore, that noe lawfull means be omitted that (under God) may conduce to the general security and preservation of the same, *Be it enacted* by his Excellency William, Earle of Craven, Palatine, and the true and absolute Lords and Proprietors of the said Province, by and with the advice and consent of the nobility and comons of this present Parliament assembled; And it is enacted by the authority of the same, that the Colonell, Lieutenant Colonell, Major and all other Comission officers within the said parte of this Province, in any Regiment or Regiments within the same, doe forthwith by command of the Governour for the tyme being, cause all the respective lists of his and their companies to be forthwith settled and compleated, and to be in such military posture as is required in a late Act entitled an Act for the better regulation of the militia. And it is further enacted by the authority aforesaid, that within thirty days after the Ratification of this Act, there be built and erected one tight small house upon Sullivand's Island, the like watch house upon the South point of the mouth of Ashley river, and the like tight watch house, in such place about Port Royal within the said parte of this Province, as the Inhabitants there shall judge most fitt; and that in order to the same, as soon as may be after the ratification of this Act, the said field and comission officers by appointment of the Governour for the tyme being, doe meet in Charlestowne, whoe or any three of them, of which a field officer to be one, doe consult and agree upon the most likely expedients for the better execution of this Act, and amongst others consult and agree upon the most fiting places for the erecting all the said three watch houses for look-outes on the places above appointed, each of which watch houses shall during the pleasure of the Grand Counsell, be constantly guarded by four men and a serjeant, to be appointed as hereafter mentioned; the said officers as to the place of the said third watch house at Port Royal shall take to themselves the assistance and opinion of the most prudent Inhabitants near the said place. Which said Officers at their said meeting, shall appoint one or more fiting and discreet persons whome they shall think best, with power and authority to him or them given, to survey, oversee, and speed the erectment of all the said three watch-houses. Which said Surveyor or overseers, shall (according to instructions given him or them by the said officers, or by the Governour or Grand Counsell) judge of and direct the dimension, scantlings and workmanship, of the said three watch-houses.

II. *And it is enacted*, by the authority aforesaid, that the Grand Counsell shall from tyme to tyme, by their warrant or order directed to the Public Receiver of the said parte of this Province for the tyme being, require him to issue out, pay and deliver to the person or persons appointed to receive the same, all moneys or effects necessary for the absolute beginning and finishing the said works, and also for the wages of the said surveyor or overseer, surveyors or overseers, and the wages of the said watchmen and serjeants, according to the directions of this Act. And in case there shall be no Grand Counsell sitting at the tyme of any extraordinary emergencyes in the want of moneys to defray the said charges to be paid by virtue of this Act; then in such case, any three comission officers, of which the said Colonell or Major shall be one, shall signe their orders directed to the said Receiver for the tyme being, which said Receiver and his Deputy, are hereby required to complye with, and pay the contents of all such last mentioned orders, in equall manner as if they had been issued out and directed by the Grand Counsell assembled.

III. *And it is enacted* by the authority aforesaid, that as soon alsoe as ^{A. D. 1688.} may be after the Ratification of this Act, a good Boate or Boates be appointed for this service by the Grand Counsell, who are hereby authorised to direct the said field or comission officers or others concerned, how they shall take, imploy and secure the said boate or boates for the service of the said watch-houses or any other public service, and shall further appoint to every surveyor or overseer imployed in the said worke or workes to be done in and about the said watch-houses, his and their convenient wages and recompense. ^{Boats to be appointed for this service.}

IV. *And it is further enacted*, That the Colonel or other Field ^{Soldiers, how to be appointed.} officer of each Regiment or Regiments in the said parte of this Province, doe from tyme to tyme, as there shall be occasion, give his orders to his under officer or officers, of every company by turnes throughout the said Regiment or Regiments, to draw out from each company, four men and one serjeant to command them, with orders to him and them to keep stand, watch and duty at the said respective watch-houses, where they are or shall be sent by their superiour officer or officers. ^{Provided} allwais, and it is hereby enacted, that every Colonell, or his Major during the said Colonell's absence, doe give every Captain or Officer comanded as aforesaid, seaven days notice of his sending his said serjeant and soldiers to the said watch-houses as aforesaid; and every such comanded officer or officers is, and are hereby strictly charged and enjoined to use herein all impartiality, giving every man his equall share of duty.

V. *And it is hereby enacted* by the authority aforesaid, that the said ^{Relief of Guard, how to be managed.} superiour Officers, Colonell or Major, shall at the end of every fourteen days, successively happening after the first appointment of the said Guard or Watch, relieve after the manner of martiall discipline, the persons watching and keeping guard at the said watch houses. But nevertheless, if it shall fall out that through stress of wind and weather, such person or persons appointed to keep guard and watch as aforesaid, cannot be relieved in due tyme as by the intents of this Act; yet the said serjeant and his said guard remaining upon their duties, shall not presume to ^{If they are not relieved at the precise time, they are nevertheless to remain at their post.} retire from their said guard, watch-house, and station, of themselves, but shall continue their respective duties (not exceeding eighteen days in all,) until they shall be duely relieved according to martiall order and usage, under paine of incurring such punishments which offenders in like cases, according to martiall discipline ought to suffer.

VI. *And it is further enacted*, by the authority aforesaid, that every ^{Provisions, how to be found.} person comanded by virtue of this Act, to doe the duty above specified, which from him is required, at the said respective watch-houses, shall take and carrye with him at his own costs and charges, eighteen days provision for himself, and that the Master, Mistress or Overseer of every servant soe sent, or under comand as above mentioned, shall find and deliver to such his servant, the like provisions sufficient for eighteen days as aforesaid.

VII. *And it is enacted* by the authority aforesaid, that each person ^{Guard, how to be armed.} comanded to keep watch or guard, at any of the said watch or guard houses, be completely armed with a good musket or fuzee, and sword or hatchet, and a good Cartuse Box or collar of bandeliers, with twelve charges of good powder and ball, as by the said cited Act is directed. And that the serjeant comanding each party of four men, and every other soldier or person, sent as aforesaid, shall receive and have for ^{Wages of the men.} wages in manner following, that is to say, every such serjeant shall have and receive two shillings per diem, and every other soldier, the sum of fifteen pence for every daye he or they shall performe his or

A. D. 1685.

their duties according to orders that shall be given in that behalfe, which wages their said respective superiour officers most immediately concerned, shall see be duely paid them accordingly. And permission is given to every Master, Mistress or Overseer of every servant sent upon duty as aforesaid, to take to himself the wages of his, her, and their servant and servants, any thing before contained to the contrary notwithstanding.

Money, whence
to be procured.

VIII. *And it is further enacted and ordered*, by the authority aforesaid, that all moneys or effects to be paid by the said Public Receiver for the tyme being, for the service of this Act, shall be paid out of such moneys or effects which shall be in his hands, appointed for the public service of the said parte of this Province, or otherwise in his hands paid unto him by virtue of a certain tax raised, or to be raised, by force of a late Act entitled "an Act for the raising of five hundred and twenty pounds sterling current money, for the publick charge of this Province," ratified on the eleventh day of April last, one thousand six hundred eighty and five.

Fines and
punishments
enacted.

IX. *And it is further enacted* by the authority aforesaid, that every field or other comission officer or officers offending against the purporte of this Act, shall be fined at the discretion of the Grand Counsell, soe as that the fine of any one officer offending, doe not excede the summe of tenn punds sterling, and every serjeant or soldier offending against this act, in the respective duties on them enjoined and required, shall and may be punished by the order of his or their superiour officer or officers according to martiall discipline.

X. *And it is further enacted*, by the authority aforesaid, that the Grand Counsell shall from tyme to tyme, as they shall see cause, send to the Colonell or Major of each Regiment, their orders and directions, to be by him or them communicated and sent to the serjeant and soldiers keeping watch or guard at their said watch or guard houses, instructing them in their general duties, and particularly in what manner they shall give the signal on publick alarm, upon the view and approach of any enemy, which orders and directions every serjeant or soldier sent, or to be sent to, and remaining on the said watch and guard houses, shall strictly performe and observe, on the penalties above in this act limited and appointed.

Rewards to be
given by the
Grand
Counsell.

XI. *And it is further enacted*, by the authority aforesaid, that it shall be in the power of the Grand Counsell, as they shall see cause, to appoint and grant fitting rewards to any comission officer or to any other person who shall evidently appear to have been faithfully instrumental and serviceable in putting this act into execution, and in the preservation of the government, of which fitting rewards the Grand Counsell shall order the payment in such manner as above directed.

Power to hire
soldiers and
workmen.

Provided always and it is hereby enacted, that it shall be in the power of the Colonel, Major, or of the other said comission officers, of which the said Colonel or Major to be one, in their discretions to hire and agree with five able and fitting persons to performe the duty of any of the said serjeants and four soldiers by this act required for each of the said watch-houses upon Sullivand's Island and the South point of the mouth of Ashley river, ordering them wages and punishing their neglect as is above appointed and directed, and also full power and authority to hire and agree at reasonable rates with such number of fitting workmen which shall be necessary for the speedy building of all the said three watch houses, and that the said workmen be paid and satisfied in such manner as is above

directed, any thing before contained in this Act to the contrary notwithstanding.

A. D. 1685.

*Read three tymes and ratified in open Parliament, this
23d day of November, 1685.*

JOSEPH MORTON,
ROBT. QUARRY,
JOHN GODFREY,
PAULL GRIMBALL,
STE. BULL,
JOS. MORTON, Jun.
JOHN FARR,
WILL. DUNLOP.

At the Parliament begun and held at Charlestowne, for that parte of the Province of Carolina that lyeth southward and westward of Cape Feare, on the nyneeteenth day of November, in the yeare of our Lord Christ, one thousand six hundred and eighty-five, and in the first yeare of the reigne of our Sovereign Lqd James the second, by the Grace of God, King of England, Scotland, France and Ireland, Defender of the Faith, &c.

AN ACT FOR THE REVIVING OF SEVERALL ACTS OF PARLIAMENT HERETOFORE MADE IN THIS PARTE OF THE PROVINCE OF CAROLINA WHICH LYETH SOUTH AND WEST FROM CAPE FEARE.

No. 28.

WHEREAS, diverse good lawes have been heretofore made in the said parte of this Province, now expired, by experience have been found very useful and much tending to the publick good thereof.

*Preamble, to
revive certain
acts now
expired.*

Be it therefore enacted, by his Excellency, William Earle of Craven, Palatine of the said Province, and by the Lords and absolute Proprietors of the same, by and with the advice and consent of the nobility and Commons in the said Parliament assembled, and it is enacted by authority of the same, That one act ratified in open Parliament on the twenty-sixth day of May, in the yeare of our Lord Christ, one thousand six hundred and eighty two, intituled an Act for the suppressing of idle, drunken and swearing persons inhabiting within this province. One other Act ratified as aforesaid, on the twenty-fifth day of the last mentioned month of May, intituled an Act for the observation of the Lord's Day. One other Act ratified as aforesaid, on the first day of November, in the yeare of our Lord Christ, one thousand six hundred eighty and three, intituled an Act to prevent runaways. One other Act ratified as aforesaid, on the twenty fourth day of September, in the yeare of our Lord Christ, one thousand six hundred eighty and three, intituled an Act for damage of protested bills of exchange. One other Act ratified as aforesaid, on the twenty-fifth day of September, in the yeare of our Lord Christ, one thousand six hundred eighty and three, intituled an Act for servants arriving without indentures or contracts. One other Act, ratified as aforesaid, on the last mentioned twenty-fifth day of September, intituled an Act for preventing taking away boates and canoes. And that all and every the branches, words, clauses and sentences in the said severall

*Enumeration
of the acts
revived.*

A. D. 1685. Acts contained, be, and they are hereby revived, and shall stand and be in full force and strength to all intents and constructions whatsoever.

*Read three tymes and ratified in open Parliament, this
23d. of November, 1685.*

JOSEPH MORTON,
ROBT. QUARRY,
JOHN GODFREY,
PAULL GRIMBALL,
STE. BULL,
JOSEPH MORTON, Jr.
JOHN FARR,
WILL. DUNLOP.

At the Parliament begun and held at Charlestowne, for that parte of the Province of Carolina, that lyeth Southward and Westward of Cape Feare, on the nyineteenth day of November, in the yeare of our Lord Christ, one thousand six hundred and eighty five, and in the first yeare of the reign of our Sovereign Lord, James the second, by the Grace of God, King of England, Scotland, France and Ireland, Defender of the Faith, &c.

No. 29. **AN ACT** FOR THE REVIVING AND ASCERTAINING THE FEES HERETOFORE CHARGEABLE TO THE REGISTER OF MARRIAGES, BIRTHS AND BURIALLS, BELONGING TO THAT PARTE OF THE PROVINCE OF CAROLINA WHICH LYETH SOUTH AND WEST FROM CAPE FEARE.

Fees enacted. *Be it enacted*, by the Palatine and Lords Proprietors of the said Province, by and with the consent of the nobility and comons in this present Parliament assembled, and it is enacted by the authority of the same, That all fees and dues heretofore appointed and settled, to be paid by all and every person or persons in the said parte of this province * * * * unto the Register of Marriages, Births and Burialls for the tyme, belonging to the said parte of this province, as they are sett down and expressed among other things in a certain act of Parliament heretofore made in the said parte of this province, and ratified on the twenty-fifth day of September, in the yeare of our Lord Christ, one thousand six hundred and eighty three, intituled an Act for ascertaining publick officers fees, are and shall be continued to be paid unto the said Register, in such manner as by virtue of the said act they have been heretofore paid.

**Penalties and
Forfeitures.**

And it is further enacted by the authority aforesaid, that all clauses, words and sentences, in the said Act, appointing certain penalties and forfeitures to be paid by all persons not making due Registries according to the intent of the said Act, and not performing what is on them required thereby, and in relation to the office of the said Register, shall be, and

are hereby revived and continued, and be in full force and strength to all intents and constructions whatsoever. A. D. 1685.

*Read three tymes and ratified in open Parliament,
this 23d. November, 1685.*

JOSEPH MORTON,
ROBT. QUARRY,
JOHN GODFREY,
PAULL GRIMBAL, L
STE. BULL,
JOSEPH MORTON, Jr.
JOHN FARR,
WM. DUNLOP.

NOTE—The Act of September 1683, above mentioned, is not now extant. By the Church Act of November 30, 1706, Sect. 32, 33, 34, the appointment of a Register of Births, Marriages, &c. is given to the Vestry. This Act was confirmed by Act of April 8, 1710, Sect. 8. The Act of November 30, 1706, is sadly mutilated by Grimke. I do not find any repeal of the 23d Sect. of that Act, nor ought an appointment of such importance to be omitted. Such an officer ought to belong to every district in the State.

**AN ACT OF PARLIAMENT INTITLED AN ACT TO LEAVY AND IMPRESSE
MEN, ARMS &c., FOR THE DEFENCE OF THE GOVERNMENT, AND FOR
THE ASSESSING 500 POUNDES, &c.** No. 30.

WHEREAS the subjects of the King of Spaine, by him thereunto Preamble.
* * * * * have lately in a barbarous and hostile manner, invaded
us his Majestie's subjects, inhabitants of that parte of this province which
lyeth to the South and Westward of Cape Feare, and under this Govern-
ment, burning our houses, killing our stock, cutting off our crops and
provisions, murdering and making prisoners as many of us as by the
unexpectedness of the attempt, had not the opportunity to escape, and
are still designing and contriving our utter ruin and the subversion of
this government; for the more speedy prevention thereof, and the better
to enable us to defend ourselves against and repel these our enemies, Enactment.
Bee it enacted by his Excellency, William, Earle of Craven, Palatine,
by and with the advice and consent of this present Parliament assem-
bled, and by the authority of the same, that the Grand Counsell have
power, and the grand Counsell is hereby impowered at all tymes, before
the fifteenth day of January next, and not after, to leavy and impress Power to
impress men,
arms, &c. &c.
men, ships, boates, arms, ammunition and provision, and all other things
necessary to persue, attaque and (by God's grace,) to vanquish our afore-
said enemies, wheresoever within this province, or elsewhere, they are
and may be found, and to doe and perform all other exploits which may
tend to the quiet and preservation of this government. Provided alwayes,
and it is hereby intended that the said men, ships, boates, arms, ammu-
nition and provision, and every other thing impressed by virtue of this
Act, be employed and made use of to noe other end or purpose, than the
pursuit and vanquishing the aforesaid enemies, and that the persons from
whom the ships, boates, arms, ammunition and provisions, or any other
thing whatsoever, shall be impressed as aforesaid, may bee reasonably
satisfied and paid. And that the charge of this present expedition may
bee equally and indifferently borne by the respective freeholders, and

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Power to lay
a tax to amount
of £ 500.

Power to
appoint 13
freeholders as
Assessors.

Duty of
Assessors and
Grand
Counsell.

Percentage to
be Receivers.

Articles
impressed to be
paid for.

Security to be
given by
Receivers.

Books to be
kept of receipts
and payments.

Rate of
provisions.

others the inhabitants of this Province, *Bee it further enacted*, by the authority aforesaid, that a tax of five hundred pounds sterling bee equally assessed, imposed and leavyed upon the severall inhabitants, merchants and others, (not servants for tyme or terme of yeares,) which now are, or hereafter shall come into this province before this assessment shall be made, (Seamen excepted,) according to their severall estates, stores and abilities, and according to the profits indifferently computed of every publicque officer, arising from, or by his respective office or any other imployment whatsoever, to be collected and paid in manner hereinafter mentioned. And *bee it further enacted* by the authority aforesaid, that the Grand Counsell have power to nominate and appoint thirteen freeholders, which thirteen or any eight of them, shall upon the first Tuesday of May next, meete at Charlestowne, and before they depart thence, truly, equally and justly assess the said five hundred pounds sterling, and returne thereof make to the Grand Counsell at their next following Session, who shall at some convenient tyme after the first day of October next, and not sooner, order the Receiver to give notice to all persons to pay their proportion as is hereafter provided. And it is not hereby meant or intended, that the freeholders nominated and appoynted as aforesaid, shall bee hereby impowered to assess their respective proportions of the said tax, but shall assess the full summe of five hundred pounds sterling, upon others the severall persons as aforesaid. And the Grand Counsell is hereby impowered to appoint five persons, three whereof to bee members of Parliament, to assess the thirteen assessments as aforesaid. And *bee it enacted*, that Joseph Pendarvis and William Popell, gent, shall be receivers for all the severall summe or summes and proportions to be raised by virtue of this Act, and in case of his or their failure or death, the Grand Counsell is hereby impowered to nominate another, who shall bee allowed ten per cent for all moneys paid and disposed of according to the directions of the Grand Counsell, which is hereby impowered to dispose of the same, so as it bee not to, or for any other use or end but the paying and satisfying the severall persons from whom they have imprest or taken any thing since the seaventeenth day of August last past, or hereafter shall impresse as aforesaid, for the necessary defence and safety of the publicque, and for paying ten pounds to the aforesaid agents or as many of them as attend to this business, and also for the paying twenty shillings to each commissioner of Appeals hereinafter named, which shall attend this service. And the said receivers shall before the first day of March next, give sufficient security such as the Grand Counsell shall approve of, to the honourable the Governour for the tyme being, for the use of the publicque, for their honest discharge and performance of their said office, and to keepe a faire book of accounts alwaie ready to be perused by all persons concerned, of all moneys received and disposed of according to order of the Grand Counsell. And all persons are hereby required to pay their severall rates, taxes and proportions, to the said Receivers, their deputy or deputyes, at Charlestown, within twenty days after notice given them at their respective dwellings, or elsewhere, by the Receivers, their deputy or deputyes, of their severall rated taxes and proportions imposed on them by this Act. And it shall and may be lawful for any person to pay their severall proportions in merchantable sound Corn, at two shillings per bushell, Pease, at two shillings and six pence per bushell, Beef, at sixteen shillings and eight pence the hundred, Porke, at two pence half penny the pound, and Tarre, with the caske, at tenn shillings the barrell. And the Receivers, by themselves or their deputies, are hereby required and comanded to

give a list with their proportions of all persons refusing or neglecting to pay as aforesaid to one or more members of the Grand Counsell, who is hereby thereunto authorized and required within five days after hee shall receive a list of the persons with their proportions refusing or neglecting to pay, by his warrant under his hand and seale to the next Constable, who is hereby required to give due obedience in execution thereof, to distrain the person or persons soe refusing by his or their goods and chattels, and the distress soe taken to keep by the space of foure days att the cost and charges of the owner thereof. And if the said owner doe not either in foure dayes pay as aforesaid the said sume of money due by this Act, the said distressee to be appraised by three or two of the inhabitants where the said distressee is taken, the said appraisers being sworn before any member of the Grand Counsell or any Justice of the Peace; and the said Constable is hereby required to deliver the said distressee, or as much of it as doth by the said appraisement, together with charges of keeping, distraining and appraising, to the receiver, hee paying the constable the charges for taking, keeping and distraining, as aforesaid, and the overplus to be delivered to the owner. And if noe distressee can or may be found whereby the rates of any person or persons may be leyed, in every such case any one member of the Grand Counsell is hereby authorized by warrant under his hand and seale to commit such person or persons to the common goal, there to be kept without bail or mainprize untill payment shall be made. And if any person assessed or rated finde him or herselfe aggrieved by such assessing or rating and doe within ten dayes after notice thereof given him by the Receivers complaine to Col. John Godfrey, Capt. Benj. Blake, Joseph Morton, jun., John Farr and Capt. Robertt Gibbes, Esq., or any two of them, who are hereby impowered within ten dayes and after such complaint particularly to examine the person complaining of his or her personal estate, wages or profits of his or their offices, and upon due examination or knowledge thereof abate, default, encrease and enlarge the said assessment. *And bee it further enacted*, that if any Assessor, Constable, Commissioner, the said Receiver, or any other person whatsoever which derives any power from this Act for the due execution thereof, shall wilfully neglect or refuse to perform his duty in the due and speedy execution of this present Act, the Grand Counsell may and shall by virtue of this Act impose on such person or persons soe refusing or neglecting their duties any fyne not exceeding ten pounds for any one offence, the same to be leavyed as is before in this present Act provided for the severall rates and assessments which are not paid as before appoynted, and the said fines shall be disposed of and appoynted to the same use and service the other money raised or to bee raised by virtue of this Act is hereby ordained.

And whereas, for the better managing and carrying on this exploit, several of the members of the Grand Counsell by their conduct, advice and assistance are required to attend this service, *Bee it enacted*, and it is hereby enacted by this present parliament, that the Governor with any four members of the Grand Counsell shall make a Quorum and have and execute the full power of the Grand Counsell to all intents and purposes as virtually and effectually as if all the members of the Grand Counsell were present, untill the fifteenth day of January next, or the returne of the members of the Grand Counsell employed in this service, which shall happen first. *And bee it further enacted*, that John Shelton is hereby nominated and appointed Clerke of this parliament, who is to bee paid and allowed out of the money raised by this Act, after the rate of ten pounds

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per cent for the tyme he shall officiate as Clerke, and to have all fees and perquisites to a Clerke of Parliament doe or may belong.

*Read three tymes and rutified in open Parliament, this
fifteenth of October, 1686.*

JOSEPH MORTON,
JNO. GODFREY,
PAULL GRIMBALL,
STE. BULL,
JNO. FARR,
WM. DUNLOP,
JOS. MORTON, Jr.

No. 31. AN ACT FOR MAKING AND MENDING HIGHWAYES AND PATHES AND FOR CUTTING OF CREEKS AND WATER-COURSES. (See last volume.)

Parliament begun and held at Charlestowne the twentieth day of January in the yeare of our Lord God one thousand six hundred eighty and six and in the third yeare of the reigne of our Sovereigne Lord James the Second, King of England, &c.

No. 32. AN ACT FOR ASCERTAINING THE GOVERNOR'S FEES.

Preamble.

WHEREAS, it hath been the custom and practice of all nations and under all governments to take special care for the due support and maintenance of the Chief Magistrate or Governor, and whereas we are very sensible that the government of this province cannot be carried on with that honour and advantage that it ought without much charge and expense to the Governor, wherefore, out of a due regard and consideration thereof and as a more special and particular mark of our respects to the honourable Landgrave, James Colleton, our present Governor, *Bee it enacted*, by his Excellency William, Earle of Craven, Pallatine, and the true and absolute Lords and Proprietors of the said Province and by the Nobility and Commons of the same, that the honourable Landgrave James Colleton, our present Governor's hall have and receive the several fees hereunder mentioned.

Penalty on
selling liquor
without license

And bee it further enacted by the authority aforesaid, that if any manner of person or persons whatsoever shall from and after the ratification of this act presume to sell by retail any Wine, Brandy, Rum, Spirits, Beere, Ale or any other liquor whatsoever without a license first obtained from the honourable Landgrave, James Colleton, our Governor, every such person or persons as shall bee duly convicted thereof before any two members of the Grand Counsell shall forfeit the sum of Ten Pounds sterling, to bee levied on their goods and chattels by a warrant under the hands and seales of any two members of the Grand Counsell, who are hereby impowered to grant such warrant to the Provost Marshall, and he the said Provost Marshall is required to make a due returne of every such warrant to the Grand Counsell at their next sitting after the execution thereof. *And it is further enacted* by the authority aforesaid, that in case the Provost Marshall shall make returne that he cannot finde any goods or chattels belonging to the person or persons offending against this Act, and being duly convicted thereof as aforesaid, that then it shall and may be lawful for the Provost Marshall who is hereby impowered to take the

person or persons so offending against this Act and convicted thereof as aforesaid into his custody, there to remain without bail or mainprize until hee or they shall have satisfied the aforesaid sume of ten pounds, one moyety of which said sume of ten pounds shall be to and for the use of the honorable Landgrave James Colleton our present Governor, and the other moyety or half part thereof to be employed for and towards the public service and defence of this Province. *And bee it further enacted* by the authority aforesaid, that all and every person whatsoever who shall from and after the publication hereof sell any punch in his or their house, or shall sell any wine, rum, brandy, spirits, beere, ale or any other liquor whatsoever in any quantity or measure whatsoever under the quantity of a full gallon, every such person or persons shall be construed and taken for a retailer, and shall be liable to all such fine as is contayned in this Act. *Provided* always, and it is the true intent and meaning of this Act, that this Act nor any thing therein contayned do not extend to any persons that are inhabitants in the country who shall sell rum or other liquors to their servants and workmen or to supply their neighbours or others out of their said house or houses.

A. D. 1686.

Who is a
Retailer.

Exceptions.

THE GOVERNOR'S FEES.

	L.	S.	D.
For signing the dispatch of every Vessel.	0.	10.	0
For a license to retail Wine.	5.	0.	0
For a license to retail Punch.	3.	0.	0
For signing a testimoniall and seale.	0.	10.	0
For signing every writ or warrant in the Admiralty.	0.	10.	0
For a warrant of contempt in the Admiralty.	1.	0.	0
For signing a license for marriage.	0.	10.	0
For signing a decree in the Admiralty.	1.	0.	0
For signing letters of administration.	0.	10.	6
For signing a warrant of appraisement.	0.	5.	0
For signing the probatt of a will.	0.	10.	0
For signing a warrant for land.	0.	2.	6
For signing a grant for 500 acres of land or more,	1.	0.	0
For the entry and freedom of every person.	0.	2.	6
For an injunction in Chancery.	0.	10.	0
For signing a decree in Chancery.	0.	10.	0
For signing a ticket for each person going off.	0.	2.	6
For signing every grant under 500 acres of land.	0.	10.	0
For a prohibition in the Admiralty.	0.	10.	0

Provided always, and bee it enacted by the authority aforesaid, that this Act nor any thing therein contayned shall continue to be enforced any longer than during the time that our present Governor shall continue to be soe or during the time of twenty-three months after the ratification of the same which shall first happen.

Continuance
of this Act.

*Read three tymes and ratified in open Parliament, the
22d day of January, 1686.*

JOHN FARR.

JAMES COLLETON,
PAULL GRIMBALL,
STE. BULL,
JOS. MORTON,
WILL. DUNLOP.

A. D. 1686.

Parliament begun and held at Charlestowne the twentieth day of January, in the yeare of our Lord one thousand six hundred eighty and six and in the third year of the reigne of our Sovereigne Lord James the second, King of England, &c.

No. 33.

AN ACT FOR THE RAISING OF A PUBLIC STORE OF POWDER FOR THE DEFENCE OF THIS PROVINCE.

Preamble.

WHEREAS, the subjects of the King of Spain have several tymes lately in a most barbarous, inhuman and hostile manner invaded his Majestyes subjects inhabitants of that part of this Province which lyeth to the south and westward of Cape Feare, burning our houses, killing our stocke, destroying our provisions, murdering and making prisoners several of his majestyes good subjects there peaceably settled under this government: *And whereas* it is thought absolutely necessary in order to the future safety and defence of his Majestyes subjects and of all ships and vessels trading to and from this Province, that there be a publicque store of powder alwayes in readiness;

In case of false
and short entry

Bee it therefore enacted by his Excellency William Earle of Craven, Pallatine, the true and absolute Lords and Proprietors of the said Province and by and with the advice and consent of the Commons of the same, now assembled in Parliament, and it is enacted by the authority of the same, that all and every master and commander of all and every ship or ships, vessel or vessels, that now and hereafter shall come into any port or harbour belonging to this Government, from and after the publication of this Act, shall make a true and just entry in the Secretary's office of the burthen or tunnage of his and their ship or vessel, and every such master or commander shall pay and deliver the full and just quantity of half a pound of good clean and serviceable gunpowder, for every and each tun that his or their ship or vessel shall and doth measure by the rule or contayne, and for want of such powder to be paid and delivered as aforesaid, the said master or masters, commander or commanders, shall pay or cause to be paid in shere silver, the sume of nyne pounds, for each and every tun which his or their ship or ships, vessel or vessels, doth or shall measure by the rule or contayne as aforesaid. *And it is further enacted* by the authority aforesaid, that the Governor, for the tyme being, shall have power and is hereby impowered from tyme to tyme, to appoint such person or persons who he shall think fit, for the receiving of all such quantitie or quantites of powder, or all such sumes of money in lieu thereof, which shall be due by virtue of this Act, from any master or masters, commander or commanders, for the tunnage of his or their ship or ships, vessel or vessels as aforesaid. *And it is further enacted*, by the authority aforesaid, that in case any master or masters, commander or commanders of any ship or ships, vessel or vessels, doth or shall make a false or short entry of the tunnage of his or their ship or vessels, contrary to the true intent and meaning of this Act, that in such case the person or persons so appoynted by the Governor, for the receiving of the powder or money as aforesaid, shall and may, and is hereby impowered to send a surveyor on board any such ship or vessel, the master or commander whereof is supposed to have made a false or short entry of her tunnage, and the surveyor is to measure the said ship or vessel, and whatever she shall appear to be or contain, over and above what she was entered for, the master or commander shall pay or deliver for every tun so entered short the quantity of half a pound of powder or nyne pounds clear money, over and above what was due upon the first entry; and also the Surveyor shall have and receive from such master or commander for his paines

and trouble, the sum of ten shillings clear money. But in case it doe or shall appear, upon the measuring of any ship or vessel, that she doth not centayn more tuns than she was entered for, the master or commander of such ship or vessel, shall not be obliged to pay unto the Surveyor any fee for his service and paines in measuring the said ship or vessel. *And it is further enacted* by the authority aforesaid, that if any master or commander of any ship or vessel shall neglect, refuse or deny to pay and deliver all such quantity or quantites of powder or sune or sumes of money which shall be due from him or them by virtue of this Act, unto the person or persons appoynted by the Governor, for the receiving thereof, in such case, it shall and may be lawful for the Provost Marshall, who is hereby impowered and required, at the request of the person or persons appoynted by the Governor to receive the powder or money by virtue of this Act, to arrest the person of the said master or commander, or to attach his or their ship or vessel so that the said ship or vessel shall be held and continued in the custody of the Law, or the person of the said master or commander, without bayle or main prize, until the said master or commander shall pay and deliver unto the person or persons appointed by the Governor as aforesaid, all such quantity or quantites of powder or all such sune or sumes of money which shall be due by virtue of this Act, from him or them for the tunnage of his or their ship or vessel, together with all the costs and charges that shall or may accrue, by reason of the non-payment as aforesaid. *And it is further enacted* by the authority aforesaid, that the person or persons who shall be appoynted by the Governor to receive all such powder or money, which shall be due by virtue of this Act, he or they shall be obliged to keep a faire booke of accounts, alwayes ready to be perused by the Governor and Grand Counsell, or one appoynted by them, in which account hee or they shall mention the particular quantity received from every ship or vessel, with the name of the commander, and also the name of the ship or vessel with the time of her departure; and the receiver or receivers appoynted as aforesaid, shall not part with any of the powder or money, which he or they shall receive by virtue of this Act, without an order under the hand of the Governor, which order shall bee received and allowed off upon his or their account.

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On refusal to pay the Provost Marshall to arrest the delinquent or attach the vessel.

Books to be kept and entries to be made of vessels.

And bee it further enacted by the authority aforesaid, that whatever sune Money or sumes of money shall be received in lieu of any powder, by virtue of this Act, all and every part of the said money so received, shall not be disposed of or imployed to or for any other use whatsoever, than for the buying of powder for the publicque defence and security of the country. *And bee it further enacted* by the authority aforesaid, that his Honor the Governor, shall have power to appoint some fitting person to be Comptroller of the said accounts. Provided alwais, that this Act and all the matters therein contayned, by the authority of this present parliament, are enacted to continue in force the space of twenty-three monthes, from the ratification of the same and no longer.

Money received to be laid out in powder.

Comptroller of accounts.

Limitation.

Read three tymes and ratified in open Parliament, the
22d of January, 1686.

JAMES COLLETON,
PAUL GRIMBALL,
JOS. MORTON,
JOHN FARR,
STE. BULL,
WILL. DUNLOP.

A. D. 1686.

Att a Parliament begun and held at Charlestowne, the one and twentieth day of February, in the yeare of our Lord God, one thousand six hundred eighty and six, and in the third yeare of the Reigne of our Sovereigne Lord King James the Second, over England, &c.

No. 34.

AN ACT INHIBITING THE TRADING WITH SERVANTS OR SLAVES.*

(See Acts No. 60, 81, 135.)

Penalty for
buying or
selling without
leave of the
master.

FORASMUCH, as there hath beene of late several indirect bargaines between freemen, servants and slaves, amongst themselves, whereby some evilly disposed, have adventured privately to embezzle, wast and sell divers of their master's goods, to the impoverishing of their said masters and the nourishing and introducing of vice in this province, for the prevention whereof for the future, and for the rectifying divers other disorders and enormities, that more civilly minded servants and slaves may not be induced to the same: *Bee it enacted* by the authority of this present Parliament, and it is enacted by the authority of the same, that from and after the publication hereof, it shall not bee lawful for any freeman or free woman, servant or slave, to buy, sell, barter, contract, bargain or exchange any manner of goods or commodities whatsoever, of, for, to, or with any servant or servants, slave or slaves in this Province, during their time of servitude, without the privy or consent of the master or mistresse of such servant or servants, slave or slaves. And any person offending in any manner as aforesaid, shall be liable, both buyer and seller, if servants, to serve each of their masters, one whole year more than their contracted tyme, being brought before any two Justices of the Peace, one being of the Quorum, and by them convicted of dealing as aforesaid; an account thereof being returned into the Grand Counsell at their next sitting. *And it is enacted* by the authority aforesaid, that if any free man or free woman, at any tyme from and after the publication hereof, shall or do buy, sell, bargain, contract, barter or exchange, any manner of goods or commodities whatsoever, of, to, or with any servant or servants, slave or slaves, within this Province, and the said goods or commodities do rightly belong to the master or masters of such servant or servants or slaves, or any other person or persons whatsoever; such free man or free woman so offending, shall satisfy and pay ten times the real value, to be recovered, by due course of Law, to the person whose goods were soe sold and disposed, and all and every part of the goods and commodities soe bought as aforesaid, to the person or persons whose goods they were. And such servant or servants, slave or slaves, soe selling or exchanging such goods or commodities, shall suffer and abide such punishment or censure, not extending to the taking away life or limb, as the Grand Counsell, or any two of them or any two Justices of the Peace, one being of the Grand Counsell, shall think fitt.

And it is likewise enacted by the authority aforesaid, that if any servant or servants, slave or slaves, at any tyme or tymes hereafter, shall embezzle, wast, consume or destroy, or shall buy, sell, bargain, contract, barter or exchange any manner of goods or commodities, belonging to his or their master or mistresse or any other person or persons whatsoever, to any servant or servants, slave or slaves in this Province, such servants so offending in any manner as aforesaid, shall, after the expiration of their term of servitude, serve so long time to his master or mistresse, or other person or persons whose goods they shall happen to bee, as any three Justices of the Peace (a member of the Grand Counsell being one,) shall judge

*As this Act includes white as well as coloured servants, it is inserted in its chronological place here.

convenient to make satisfaction for the value and loss of such goods and commodities so embezzled, destroyed, bought or sold as aforesaid. *And it is further enacted*, by the authority aforesaid, that if any servant or servants, at any time hereafter, doe or shall strike or beat his, her or their master, mistresse or overseer, such servant soe offending, for every such offence shall, by the Grand Counsell upon due proof thereof, be ordered to serve the tyme of one whole yeare, over and above their contracted tyme of servitude. *And it is also enacted* by the authority aforesaid, that if any servant or servants, shall at any tyme or tymes hereafter, abscond or withdraw him or themselves from his her, or their masters or mistresses, such servant or servants soe offending, shall for every day they shall soe absent themselves, serve twenty eight days to their master or mistresse, over and above the contracted tyme of servitude. *And it is enacted* by the authority aforesaid, that it shall not be lawful for any negroe or negroes, or other slave, upon any pretence whatsoever, to travel or goe abroad, from his or their master or mistresses house in the night time, between the sunsetting and the sunrising, or in the day time, without a note from his or their master or mistresse or overseer. And it shall and may be lawful from henceforth, for any person or persons to apprehend or take any slave or slaves travelling or being without the bounds of his or their master's or mistresse's house, plantation or land, in the night time, or in the day tyme, without a ticket or note as aforesaid, and such slave or slaves, reasonably to chastise and correct, and cause to be sent home to his or their several owners. Provided alwais, that this Act, and all and singular the matters and things therein containd, are not to continue to be in force any longer than three-and-twenty months from the ratification of the same.

A. D. 1686.

Servants striking their master, &c.

Servants absconding.

Limitation of continuance.

*Read three tymes and ratified in open Parliament, the
28th of February, 1686.*

JAMES COLLETON,
JOHN GODFREY,
JOSEPH MORTON,
PAULL GRIMBALL.

Att a Parliament begun and held at Charlestowne, the one and twentieth day of February, in the yeare of our Lord God one thousand six hundred eighty and six and in the third yeare of the reigne of our Sovereigne Lord King James the Second, of England, &c.

AN ACT FOR RAISING THREE HUNDRED POUNDS, FOR BUILDING GALLEYES AND FOR PROVIDING STORE OF PROVISIONS FOR THE SAME, FOR THE DEFENCE OF THE COUNTRY.

No. 35.

WHEREAS, our enemy the Spaniard hath, in a hostile manner several tymes made incursion into this his Majestie's Colony, robbing and burning several of the inhabitant's houses, pillaging their stores, murdering and carrying away divers of his Majestie's subjects, all which, or the great part thereof, hath happened for want of a speedy communication of the allarum to the northern inhabitants of this Collony. And because, for the future prevention, noe method or rule for a quicker advice can bee settled or appoynted inland, *Bee it enacted*, by his Excellency William Earle of Craven, Pallatine, by and with the advice and consent of this present Parliament assembled, and by the authority of the same, that the Grand

A. D. 1686.

Beacons to be erected.

Commissioners to be appointed.

Beacons to be attended by two persons.

Attendants to be pressed or otherwise procured.

Daily pay 15 pence.

Deserting the Beacon to be felony.

Tax of £300 to be imposed.

Mode of expending the same.

Five pounds to be appropriated to the objects of this Act.

Counsell have power, and they are hereby impowered, to erect and ~~cause~~ to be erected, if in their wisdom they see it convenient, Beacons, in the most convenient place in sight of one another from Charlestowne, to the south side of the south entrance of Edistoe River, and from thence to the North side of the Westoe River, provided that the Beacons from Edistoe river to the Westoe rivers can bee attended by the Indians, and not otherwise. And the Grand Counsell is hereby impowered to nominate and appoint soe many and such Commissioners as in their wisdom they shall think fitt and needful to direct and order how, where and in what places and att what distances all the beacons aforesaid shall be built and erected. *And it is hereby enacted* that every one of the said Beacons shall be attended by two persons, one whereof at least to be a freeman, soe long as the Grand Counsell shall thinke fitt, which persons shall followe such orders in attending and putting fire to the same as shall be made and appoynted by the Grand Counsell, which is hereby authorized to make the same, and att their discretion when or how shall be given in writing by the Commissioners to be appoynted as aforesaid to the persons which from tyme to tyme shall attend the same.

And that capable and sufficient persons may not bee wanting to attend the Beacons as aforesaid, *It is hereby enacted* that the Grand Counsell have power by a warrant directed to any militia officer to presse such men as they shall think fitt and needful to attend the same, and all persons as well those that are willing as those that are prest as aforesaid are hereby allowed and appoynted to be paid out of the leavy by this Act appoynted to be raised after the rate of fifteen pence per diem.

And it is hereby further enacted, that if any person appoynted to attend the Beacons as aforesaid shall neglect to follow such rules, methods and orders as shall be given him as aforesaid in attending and firing his respective beacon, or shall before leave given him from the Commission Officer which put him there, absent himselfe from his beacon, shall be deemed and is hereby adjudged guilty of felony.

And that the Beacons before appoynted to bee erected and the persons which shall be hired or pressed to attend the same may be made and attended at the equal charge of all persons inhabiting this Collony, *It is enacted*, that a tax of three hundred pounds sterling shall bee equally assessed, imposed and leavyed upon the severall inhabitants of this province, which three hundred pounds shall be assessed and leavyed in the same manner, way and method as the five hundred pounds ordained to bee leavyed, assessed and raised by an Act of Parliament entitled An Act to leavy and impresse men, arms, &c., and ratified in open parliament the eighteenth day of October, in the yeare of our Lord one thousand six hundred eighty and six, is enacted and appoynted, which three hundred pounds to be raised as aforesaid shall bee disposed of to noe other use or service but building and attending the beacons aforesaid, building of galleyes and laying in stores of provision and ammunition for the same, for the publicque defence and security of this Collony, either by appoynting of guards or otherwise, as to the Grand Counsell shall seeme most serviceable. And that the Beacons and Galleyes aforesaid may be made and done at as easie charge of the inhabitants of this Collony as possibly may bee, *It is enacted*, that the fines appoynted to be raised by an Act entitled an Act for the better regulation of the Militia, and ratified in open Parliament the eleventh day of April, one thousand six hundred and eighty five, att the discretion of the Grand Counsell, not exceeding five pounds, is appropriated and appoynted to be disposed of to the building and attending the Beacons and Galleyes aforesaid and to the publicque defence, use and service of this Collony,

anything in the last before recited Act to the contrary conteyned notwithstanding. Provided alwayes that this Act and all the matters and things therein conteyned doe not continue to be in force any longer than the space of twenty three monthes from the ratification of the same.

A. D. 1686.

*Read three tymes and ratified in open Parliament the
28th of February, 1686.*

JAMES COLLETON,
JOHN GODFREY,
JOSEPH MORTON,
PAULL GRIMBALL.

**AN ACT FOR THE CLEAREING THE LOTTES AND STREETES OF CHARLES-
TOWNE, AND FOR THE SETTLEMENT AND REGULATION OF A NIGHT
WATCH IN THE SAID TOWNE. (See last volume.)**

No. 36.

*Att a Parliament begun and held at Charlestowne the one and twentieth
day of February, in the yeare of our Lord one thousand six hundred
eighty and six and in the third yeare of the reigne of our Sovereigne Lord
King James the Second over England, &c.*

**AN ACT FOR THE SUPPRESSING AND PUNISHING PRIVATEERS AND PIRATTES
AND TO DIRECT AND REQUIRE THE SPEEDY OPPOSITION OF THEM OR ANY
OTHER ENEMYES THAT SHALL INVADE OR MOLEST THIS PROVINCE.**

No. 37.

WHEREAS, nothing can more contribute to the honour of his Most
Sacred Majestie and the peace and quiet of this Collony, as that such
articles as are agreed and concluded on in all treatyes of peace should bee
most inviolably observed and kept in and over all his dominions and terri-
toryes, and whereas not only against such treatyes of peace made by
his Majestie with his allyes but alsoe contrary to his Majestie's royal
proclamation, severall of his subjects have and doe continually goe from
other English Collonyes and may hereafter from this Collony into the
service of foreign Princes and sayle under their commissions, contrary to
their duty and good allegiance, and by faire meanes cannot be restrayned
from soe doing.

Preamble.

Bee it therefore enacted by the Pallatine and the rest of the true and
absolute Lords and Proprietors of this Province by and with the advice
of the Nobility and of the Commons in this Parliament assembled, that
from and after the publication hereof it shall bee felony for any person
which now doth or shall hereafter inhabitt or belong to that part of the
province of Carolina that lyes from Cape Feare south and west, to serve
in America in any hostile manner under any forraigne prince, state or
potentate or any employed under any of them against any other forraigne
prince, state or potentate in amity with his Majestie, without special
license for soe doinge under the hand and seale of the Governor or Com-
mander in Chief of this province for the tyme being; and that all and
every such offender or offenders contrary to the true intent and meaning
of this Act being thereof duly convicted in the Chief Justices Court
or in any of the County Courts within the said part of the province, to
which Courts authority is hereby given to hear and determine the same
as in other cases of felony, shall suffer paines of death without benefit of
clergy.

No person to
be employed
hostilely
against
forraign
princes
in amity with
his Majestie.

A. D. 1686.

Commissions
to be issued to
try offenders.

See Stat. 28,
H. 8.

Former
proceedings
ratified.

Harbouring or
concealing.

Persons
suspected to be
apprehended.

And for the better and more speedy execution of justice upon such who having committed treasons, felonies, pyracies and other offences upon the sea shall be apprehended in or brought prisoners to this province, *Be it enacted* by the authority aforesaid that all treasons, felonies, piracies and robberies, murders or confederacies committed or that shall hereafter be committed upon the sea or in any haven, creek or bay where by the lawes of England the Admiralty hath jurisdiction, shall be inquired, heard, determined and judged within this province in suitable forme, as if such offence had been committed upon the land; and to that end and purpose Commissions shall be had under the seale of the Pallatinate directed to the Admirall or his Deputy and such other substantiall persons or such Commissioners as by the said Pallatinate Court shall be appoynted, which said Commissioners or such a Quorum of them as by such Commission shall be thereunto authorized, shall have full power to doe all things in and about the inquiring, heareing and determining, adjudging and punishing any of the crimes and offences aforesaid as any Commissioners to be appoynted under the Greatt Seale of England by virtue of a Statute made the 28th yeare of the reigne of King Henry the Eighth are impowered to doe and execute within the Kingdome of England: And that the said offenders which are or shall be apprehended in or brought prisoners to this province shall be lyable to such orders, processe, judgements and execution by vertue of such Commission to be grounded upon this Act as might be awarded or given against them if they were proceeded against in the realme of England by virtue of any commission grounded upon the said Statute. And all tryalls heretofore had against such criminall or criminalls before any Judge or Judges by vertue of such commission or authority att any tyme heretofore granted, and all proceedings thereupon are hereby ratified, confirmed and adjudged lawful, and all such Judges with all and every his inferiour officers that have acted thereby are hereby indemnified to all intents and purposes whatsoever, and in case they or any of them shall at any time hereafter be sued, vexed, molested or troubled for any such their proceedings as aforesaid, hee or they soe sued, vexed, molested or troubled shall plead the general issue and give this Act in evidence, any law, statute, custom or usage to the contrary in any wise notwithstanding.

And be it further enacted by the authority aforesaid, that all and every person or persons that shall knowingly entertaine, harbour, trade or hold any correspondence by letters or otherwise with any person or persons that shall be deemed or adjudged to be privateeres or pyrates or other offenders within the construction of this Act and that shall not readily endeavour to the best of his, her or their power to apprehend or cause to be apprehended such offender or offenders, shall be lyable to be presented as accessories and confederates and to suffer such paines and penalties as in such case by the lawes of England are provided.

And for the better and more effectual execution of this Act, and for the more speedye opposition of any enemies or robbers, whether salvages or others, that may invade or molest this province, *Be it further enacted* by the authority aforesaid, that all commission officers in their severall precincts within the said part of the province aforesaid are hereby impowered and required immediately upon his or their knowledge or notice given them that any privateere, pyrate or any other person whatsoever suspected to be upon any unlawful designe are in any place within their respective precincts, to raise and leavy such number of well armed men as hee or they shall think needfulle for the seizing, apprehending and carrying to goal all and every such persons, and in case of any resistance

or refusal to yield obedience to his Majestie's authority it shall bee lawful to kill and destroy such person or persons; and all and every person or persons that shall oppose or resist by striking or fyreing upon any commanded partye or partyes shall bee deemed, taken and adjudged as felons, without benefitt of clergy: And every such officer as shall omit or neglect his duty herein shall forfeite the sume of fifty poundes current money of this province for every such offence, to bee recovered in any of the courts of record within this province by plaint or information wherein noe assoigne, wager of law or protection shall bee allowed, one moyety whereof to bee to the Pallatine and Lords Proprietors and their heires and successors for and towards the support of the government of this province and the contingent charges thereof, and the other moyety to the Informer. And all and every person and persones that upon order or summons given him or them shall refuse or neglect to repaire immediately with his or their armes well fixed and ammunition convenient to such place or places as shall bee appoynted by the said officer or not readily obey his commands in the premises, shall bee lyable to such fyne not exceeding five pounds or such corporal punishment as the Grand Counsell shall think fitt. *Provided alsois*, that the said fines of the severall persons soe offending bee employed to noe other use or end but the publicque defence and security of this Province.

A.D. 1686.

neglecting
his duty to
forfeit £50
currency.

*Read three tymes and ratified in open Parliament the
28th February, 1686—7.*

JAMES COLLETON,
JOHN GODFREY,
JOSEPH MORTON,
PAULL GRIMBALL.

Att a Parliament begun and held at Charlestowne in the Province of Carolina the one and twentieth day of February, in the year of our Lord one thousand six hundred eighty and six and in the third yeare of the reigne of our Sovereign Lord King James the Second over England, &c.

AN ACT FOR THE TRYALL OF SMALL AND MEANE CAUSES.
(See Acts No. 43, 55, 88.)

No. 38.

BY reason of the many assistants, officers, jurors and sub officers which doe and must necessarily constitute and attend the Sheriffe's Court and Court of Pleas the fees and charges doe in most actions of debt of smaller value surmount the debt sued for in the aforesaid Courts, whereby the defendant is sometimes utterly disabled, to the plaintiff's great damage and the too frequent ruin of the defendant, to pay either the principal debt or the necessary or usual fees belonging to the Court and officers where the aforesaid pleas are and otherwise ought to be heard and tryed; for the future prevention whereof, *Bee it enacted*, by his Excellency, William Earle of Craven, Pallatine, by and with the advice and consent of this present Parliament assembled and by the authority of the same, That any one or more Justice commissioned to keep the King's peace, shall have power and are hereby empowered by their warrant under their hands and seales directed to some one Constable after motion of the plaintiff or plaintiffs in all complaints and actions of debt under fourty shillings of lawful moneye of England to summon and call and upon refusal to cause to be apprehended and brought before him or them any person or persons which have or doe refuse or neglect to pay any creditor or creditors complying

Preamble.

Debts of 40s. to
be recoverable
before a Justice
of Peace.

A. D. 1686.

Goods taken in
execution to be
appraised.

Warrants to
express the
amount and
nature of the
demand.

Judgement in
default.

Fees to be
paid.

his or their debt or debts as aforesaid, with all witnesses which are required by either plaintiff or defendant for the better proove, heareing and opening of the actions aforesaid, and after both plaintiff with witnesses, if any bee required, before him or them are come, to examine, heare, try, judge and finally determine all complaints and actions of debt as aforesaid before him or them brought, and after determination execution upon the goods and chattells of the defendant to the full vallue of the debt due and the costs and charges hereafter in this Act provided to bee paid, to cause to bee leavyed, and for want of goods and chattels the body of the defendant or defendants to the common gaol to commit, there to remain till he or they shall have paid his or their debts as aforesaid, according to the usual processe now practised in the Court of Pleas. *And it is hereby enacted*, that all and every constable or constables shall cause all goods and chattels taken in execution by virtue of this Act to bee appraised by two or more of the neighbouring freeholders and the overplus if any bee to the owner to bee returned. And all constables to whom either original warrant, subpoena or summons for witnesses or execution upon goods and chattels or the body of the defendant or defendants as aforesaid are directed by any one or more of the Justices commissioned to keep the King's peace, are hereby impowered, commanded and required to give due obedience in execution thereof according to the true intent and meaning of this Act. *And it is hereby enacted*, that all original warrants granted by vertue of this Act shall have inserted and plainly signified the name or names of the plaintiff or plaintiffs, the debt demanded and whether by bill, account, assumpsit or otherwayes due, with day of the monthe and as neare as can be judged what houre of the day dated. And it is hereby further enacted that if any person or persons bee summoned by vertue of any original warrant to be granted by this Act shall by the space of three dayes after soe summoned neglect or refuse to appeare before some one or more Justices commissioned to keep the King's peace, the Justice or Justices have power and they are hereby impowered due proof by oath thereof being first made to give judgement against the person or persons refusing to appeare as aforesaid for the full debt demanded with costs and charges and execution to grant as aforesaid; and if it shall soe happen that the defendant cannot or doth not within six houres after the original warrant to bee granted by vertue of this Act is granted, appeare before the Justice by whom it was granted or some other Justice before whom the plaintiff may have time enough within six houres to be and prosecute his complaint, *It is hereby enacted*, that then and not otherwise the plaintiff shall have reasonable tyme allowed him after notice given him of the defendant's appearance and before what Justice to bee and present his complaint, and if the defendant doth not attend where he is by the Justice appoynted till the plaintiff shall bee judged guilty of neglect for want of appearance by the Justice before whom the matter had otherwise been tryable, execution shall bee granted against him as if hee had neglected or refused to appear by the space of three dayes as aforesaid.

And bee it enacted by the authority aforesaid, that every Justice shall bee allowed and paid as is before provided, for every original warrant seven pence halfe penny, for subpoenas seven pence halfe penny, and for every execution one shilling and three pence. And every Constable for every original execution one shilling three pence, for every subpoena seven pence halfe penny, for every execution seven pence halfe penny. And if any Justice or Constable shall demand, ask and receive more for any one thing than before by this Act is appoynted

hee shall for every penny so raised forfeit the sume of five shllings, due proof by oath being made to some other Justice who is hereby made judge thereof and is impowered to leavy the same as other costs and charges before by this Act are hereby ordained to bee leavyed and to dispose of the same as hereafter by this Act is provided, viz : one moyety to the person from whom more than due was so asked and received and the other moyety to bee delivered to the Treasurer of the publicque to bee disposed of for the publicque service and defence of this province. And all Justices are hereby required to keep records of all matters and causes which in pursuance of this Act they judge and determine and the same every next Sheriffe's Court to the Sheriffe to return to be filed in his Office in the same manner and method as all processes issueable in the said Court are or usually have been. And the Justices are further required to take receipts from the Sheriffe or his Clerke who are hereby commanded to give such without charge for the records aforesaid. And that all possible meanes may be used for the more speedy payment of the plaintiff or plaintiffs after execution obtained against the body of the defendant or defendants, *It is hereby enacted* that any one or more Justices have power and they are hereby impowered in all such cases where hee or they shall judge the defendant not worth the debt recovered as aforesaid, then and not otherwise and by and with the consent of the defendant or defendants him or them to hire to labour at soe much per diem as either the plaintiff or any other indifferent person will allow, until the whole debt with costs by the produce thereof be paid, which produce the Justice or Justices are hereby required to cause to bee applied to noe other use but payment of the debt aforesaid. *Provided always*, that this Act nor any thing therein contayned to be in force any longer than the space of twenty three months from the ratification of the same.

A. D. 1686.

Justices to keep records.

Insolvent to be hired out to labour.

Limitation.

(No ratification.)

(No signatures.)

Att a Parliament begun and held at Charlestowne, in the Province of Carolina, the one and twentieth day of February, in the yeare of our Lord one thousand six hundred eighty and six and in the third yeare of the reigne of our Sovereigne Lord King James the Second over England, &c.

AN ACT FOR ASCERTAINING THE DAMAGE UPON PROTESTED BILLS OF EXCHANGE, AND TO PREVENT THE CARRYING OF MONEY FROM THIS PROVINCE. (See Act No. 46, also Act of 3rd and 4th of Queen Anne, ch. 9, 1704, and Act of 22d March, 1786, to secure the credit of Bills of Exchange, and the note thereto.) No. 39.

WHEREAS, it is usual in all partes, to encourage the bringing on and keeping Moneyes by all direct courses, and that a secure way of Exchange is the best expedient to prevent the exportation of money from this province :

Bee it enacted by his Excellency, William Earle of Craven, Pallatine, and by the rest of the true and absolute Lords and Proprietors of this Province, by and with the consent of the Nobility and Commons in this present Parliament assembled, and it is enacted by the authority of the same, that all manner of persons that have, may, or shall draw any bill or bills of Exchange, on any person in Europe, which bill or bills may or shall bee returned unpaid and protested by a Notary Publique attested by his hand and under the seale of his Office, such person or persons as

Twenty-five bills may or per cent and costs, allowed on returned bills.

A. D. 1687.

well drawer of the said bill or bills of Exchange as endorser, shall be lyable to the payment of the full sume of money expressed in the said bil: or bills, together with all costs usually allowed by merchants, together with twenty five pounds per cent advance, over and above the principal sume and costs as aforesaid, this to be allowed and recovered in all Courts of Law or Justice, held within this Province.

And further bee it enacted by the authority aforesaid, that if any bills of Exchange shall be drawne or charged on any person or persons in the Isle of Barbadoes or Bermuda, or in any other place in the West Indies or America, that shall not find a due acceptance, but be returned, protested under the hand of the person or persons deemed to be acting as Notary Publique, that then such person or persons, drawers or indorsers of such bills of Exchange, shall bee lyable to pay the principal. (The rest of this Act is wanting in the original manuscript.)

Att a Parliament begun and held at Charlestowne the seaventh day of Aprill in the third yeare of the reigne of our Sovereigne Lord King James the Second and in the yeare of our Lord one thousand six hundred eighty and seven.

No. 40. **AN ACT FOR SERVANTS HEREAFTER ARRIVING WITHOUT INDENTURES OR CONTRACTS.**

FOR the avoiding of all fraud or any other difference that may happen between masters and servants, when servants doe arrive in this Province without Indentures or other contracts, *It is enacted* by the authority of this present Parliament assembled, that all persons hereafter arriving in this Province without indentures or contracts, under the age of ten yeares old, (and) shall serve till that they arrive at the age of twenty one yeares old, and under the age of fifteen yeares, and above ten, shall serve the terme of seaven yeares, and others that arrive without indentures or contracts from Europe, above the age of fifteen yeares old, to serve five yeares; and all persons hereafter arriving in this Province from the Island of Barbadoes or any other place of America, who were some tyme before inhabitory there without indenture or contract, under the age of fifteen yeares and above ten, shall serve the space and tyme of seaven yeares, from and after their arrivall hereafter in this Province, to such person or persons as theire master or masters or mistresses, who by the consent or agreement of such person or persons have or shall pay for their passage. But any servant or servants that shall arrive from Barbadoes or any other place in America, of the age of fifteen yeares and upwards, without indenture or contract, shall serve the space and tyme of five yeares, from and after their arrival in this Province as aforesaid.

Limitations of
service
according to
age.

And it is further enacted, by the authority aforesaid, that the age or ages of the severall servants that may arrive without indentures or contracts, to bee by theire said masters brought before the Grand Counsell, within six months after the arrivall of such servant or servants as aforesaid, whose severall ages shall bee adjudged by the Grand Counsell, or any other by them appoynted. And all and every such servant or servants arriving without indentures or contracts as aforesaid, and serving according to the limitation of this Act, shall and may have and receive from the master or masters of such servant or servants, att

Wm E Earle

OF SOUTH CAROLINA.

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and upon the expiration of their terme of service, lymitted as aforesaid, one suite of Apparell, one barrel of Indian Corne, one Axe and one Hoe. A. D. 1687.

*Read three tymes and ratified in open Parliament the
9th of Aprill, 1687.*

JAMES COLLETON,
JOHN GODFREY,
BENJ. BLAKE,
JOS. MORTON,
WM. DUNLOP,
JOHN FARR.

AN ACT FOR THE PREVENTING SEAMEN CONTRACTING OF GREAT DEBTS. No. 41.

WHEREAS, several Seamen coming into the Ports of this Province of Carolina, by their irregular and prodigall way of liveing, are apt to contract such debts as by the customes and lawes of this Province, either hold or retard them from their employments, whereby the ships and vessels in which they come, may either bee made incapable of going out of the said ports for want of sufficient hands to mannage them, or by an unseasonable and long stay bee much damnified, to the very great prejudice of the masters and owners of them, as also the very great detriment of future trade to this Province: *Bee it enacted* by his Excellency William Earle of Craven, Pallatine, and the rest of the true and absolute Lords and Proprietors of the Province of Carolina, and by the Nobility and Commons in the present Parliament assembled, and it is enacted by the authority of the same, that if any Tavern Keeper, Punch Seller, Victualler, Merchant or Retailer or any other person whatsoever, shall give credit to any Mariner, Saylor or Seaman, then actually belonging to any ship or vessel within any of the ports of this part of the Province (commander and master only excepted) for more than five shillings sterling or value thereof, shall lose the whole debt, and hee or she soe crediting any Mariner, Saylor or Seaman, shall have noe benefit of Law for recovery of the same. And all Judges, Justices, Officers and Ministers of Law and Justice whatsoever, which shall grant any processe, or doe any execution, or by any means whatsoever, give any trouble to any Seaman, Mariner or Saylor as aforesaid, for any debt to be hereafter contracted exceeding five shillings, whereby cause of delay is given to the ship or vessel hee or they belong to, shall forfeit for every such offence fifty pounds of lawful money of England, to bee paid to the Lords Proprietors Receiver for their use. Preamble.

*Read three tymes and ratified in open Parliament the
9th Aprill, 1687.*

JAMES COLLETON,
BENJ. BLAKE,
JOHN GODFREY,
WILL. DUNLOP,
JOS MORTON,
JOHN FARR.

A. D. 1697.

No. 42. *AN ACT* FOR REGULATING THE ENTRIES OF VESSELS AND GIVING OUT OF TICKETTS.

Preamble.

Masters of
vessels to report
their arrival
before
unloading.

To give bond
in two thousand
pounds penalty.

Bonds to be
given by
persons who
may become
owners, &c.

WHEREAS, it is very necessary and will much conduce to the peace and prosperity of that parte of this Province that lyeth South and West of Cape Feare, that none may have opportunity to fly from Justice, and forasmuch as exact obedience ought to bee given to the laws of navigation of the Kingdom of England, of whose dominions this Province is a parte, *Bee it enacted* by his Excellency, William Earle of Craven, Pallatine, and the rest of the true and absolute Lords Proprietors of this Province of Carolina, by and with the advice and consent of the Nobility and Commons of the same in this present Parliament assembled, and it is hereby enacted and ordained by the authority of the same, that all and every master or masters, commander or commanders, of any ship or ships, vessel or vessels, whatsoever, which shall arrive after the publication of this Act into any Bay, River, Road, Harbour, Port or part of this part of the Province aforesaid, shall within eight and forty houres after his or their arrivall, or as soon as possible may bee, and before hee or they shall sell or unloade any sort of goods (live stocke and passengers excepted) repaire to the Governor for the tyme being, or to any other person whom the Governor, for the tyme being, shall so nominate and appoynt for that end, and shall to him present his or their passports, cocquets or clearings, and doe all such other things, which by the Law and customes of England is appoynted and usual for the masters of vessels to doe. *And it is further enacted* by the authority of this present Parliament, that all such masters and commanders as aforesaid shall likewise, within the space of three dayes, or as soone as may be after their arrivall and before selling and unloading as above expressed, give bonds in the Secretary's Office, with two sufficient sureties, inhabitants of this part of the Province, of the tenor following: Wee, A B, C D, E F, are held and firmly bound, unto the honourable the Governor, in the full and just sume of two thousand pounds of good and lawful money of England, to bee paid to the said Governor or his successor, or to his or their certain Attorney or Attorneys. To which payment, well and truly to be made, we doe bind us and every of us, our and every heires, executors and administrators, joyntly and severally, firmly by these presents sealed with our seales and dated, &c. The condition of this obligation is such, that if the above bounden A B doe not *** the ship or depart this Port and Province, without due license first had and obtained from the Governor of this Province, for the tyme being, for soe doing, and doe not at his departure from this Port and Province, take on board and carry away, any person or persons whatsoever, inhabitants of this Province, without leave first had and obtained from the said Governor as aforesaid, That then this obligation shall bee voyd, &c.

And be it further enacted, That all and every builder, owner, master or commander of any vessel of the burthen of eight tons, or above, which shall hereafter bee built within this part of the Province aforesaid, shall within eight and forty houres after the said vessel comes to bee launched, give bonds of the tenor above expressed, which bonds shall bee in force soe long as the said vessel shall belong to the said builder or owner, or till the said vessel shall bee employed in another voyage to another Government, which shall happen first, and then and not otherwise, every buyer or owner which shall designe a voyage as aforesaid, shall give in

fresh bonds of the tenor above, which new bonds shall discharge all other former bonds given in behalfe or concerning that ship or vessel. *And it is further enacted*, that in case any master or masters, commander or commanders, shall neglect to perform what is required by this Act, hee or they shall be deemed and construed not to have entered his, her or their vessel or vessels according to law, shall forfeit his vessel over and besides all forfeitures paines and penaltyes, which by the Lawes and Customes of England, either the master, commander or vessel which make not lawful entrie are lyable unto. *And it is further enacted*, by the authority of this present Parliament, that all and every person or persons, inhabitants of this province, or who have resided one and twenty dayes within the same, who intend to goe off, shall cause to be sett up his or their names in the Secretary's Office, one and twenty dayes before hee or they depart out of this Province, and shall thereafter obtaine a Tickett out of the said Office, that hee hath soe done, which Tickett shall be signed by the Governor, for the tyme being; or in case it shall happen that any man's necessarye affaires shall call him out of this Province within the one and twenty dayes above exprest, then every such person shall give bonde in to said Secretary's office, with two sufficient suretyes, of the tenor following. We, A B, C D, E F, are held and firmly bound unto the honourable the Governor, in the full and just sume of one thousand pounds of good and lawful money of England, to be paid to the said Governor or his successors, or to his or their certaine attorney or assignes, to which payment well and truly to be made, we doe binde us and every of us joyntly and severally, firmly by these presents, sealed with our seales and dated, &c. The condition of this obligation is such, that if the above bounden C D, E F, shall and doe well and truly pay all and every such debt or debts, sume or sumes of money, for which the above bound A B shall be underwriter in the Secretary's Office of this Province, within one and twenty dayes after the date of these presents, and doe allow, discharge and pay all judgements which shall be recovered by virtue of such underwriting, that then, &c. *And further be it enacted* and ordained by this present Parliament, and it is enacted by the authority of the same, that the Secretary of this Province aforesaid, for the tyme being, by himself or his lawful deputy for whom hee shall be accountable, shall observe these following rules. First, if any person whose name is sett up and inrolled, and within the one and twenty dayes abovesaid, be underwriter or ordered to be underwriter by any person of this province, the Secretary or his deputy above mentioned shall not give any Ticket to the said person soe underwritten, unless he shall give bonds of the above tenor last exprest. Secondly, the Secretary shall sett up or inroll such persons name who intend to goe off this Province in a faire and alphabeticall table for that purpose designed, wherein the vessel's name in which they are to goe off, the day of the month shall be exprest on which each person hath sett up his name, which table shall be renewed every six months and noe oftener. Thirdly, if it shall fall out that any person hath sett up his name in the Office abovesaid, as intending to goe off and shall not goe off in the vessel intended, such person shall be deemed and esteemed not to have sett up his name; and the Secretary is hereby required not to give such person any Tickett, unless hee sett up his name againe or find surety as above. Fourthly, the said Secretary is alwayes to have the table or roll of all such persons who goe off hanging in open view in his office, that all persons may freely have access to the same. *And it is likewise enacted*, by the authority of this present parliament, that the

A. D. 1687.

Forfeiture on neglect.

Entry to be made,

or bond to be given by persons departing.

Rules to be observed by the Secretary.

A. D. 1687. Governor for the tyme being, bee allowed and hee is hereby required to signe all such Ticketts as shall bee presented to him by the Secretary as above, unless the said Governor shall find that the Secretary hath not observed the above rules. And bee it alwayes Provided, *and it is expressly provided and enacted*, by this present Parliament and the authority of the same, that whosoever shall underwrite any person who hath sett up his or her name to goe off this parte of the Province aforesaid, for what sune soever, shall at the next Court of Pleas, prosecute his action against the person whom hee caused to bee underwritten, and if hee shall fail herein and shall not **** recover the one full halfe of the sune he did underwrite, hee shall bee lyable to be prosecuted by the party who was underwritt, for all his damages in being stayed from going. Lastly, *it is hereby further Provided* and intended, that all bonds before by this Act appoynted to bee given, either by master or commander of any ship or vessel, or any person intending to depart this Government, shall bee by the Governor, for the tyme being, disposed and made use of for noe other end or purpose, but indemnifying such persons as are injured or damaged by the departure and carrying off of any person contrary to the intent and meaning of this Act, and accordingly, the Governor, for the tyme being, is hereby required to give every person soe damaged, an attested cotype of the said bonds, with a power of Attorney to the person aforesaid to sue, hee paying the reasonable charges of the said bonds, which power and authority shall bee taken and held in all Courts of Judicature, and before all Judges, Justices and Magistrates for good and lawful, Provided always that this or any thing therein contayned, shall not continue to bee in force any longer than twenty three monthes from the ratification of the same.

Governor to sign the tickets.

Where half damages only are recovered.

Application of forfeit bonds.

Limitation.

Read three tymes and ratified in open Parliament the 9th of Aprill, 1687.

JOSEPH MORTON,
WM. DUNLOP,
JOHN FARR,
JAMES COLLETON,
BENJ. BLAKE,
JOHN GODFREY.

No. 43.

AN ACT FOR THE TRYALL OF SMALL AND MEANE CAUSES.
(*Sec Acts No. 38, 55, 88.*)

Causes under 40s. to be heard before Justices of the Peace.

BY reason of the many assistants Officers, Jurors and sub-Officers, which doe and must necessarily constitute and attend the Sheriffe's Court and Court of Pleas, the fees and charges doe, in most actions of debt of lesser value, surmount the debt sued for in the aforesaid Courts, whereby the Defendant is sometymes utterly disabled, to the Plaintiff's great damage and the too frequent ruin of the Defendant, to pay either the principal debt or the necessary or usual fees belonging to the Court and Officers, where the aforesaid pleas are and otherwise ought to be heard and tryed, for the future prevention whereof, *Bee it enacted* by his Excellency William Earle of Craven, Pallatine, by and with the advice and consent of this present Parliament assembled, and by the authority of the same, that any one or more Justices of the Peace, shall have power and they are hereby empowered by their warrant under their hand and seale directed to some one constable, in all actions of debt under forty

A. D. 1687.

shillings of lawful money of England or vulture thereof, which actions are hereby issuable and tryable only before Justice or Justices as aforesaid and in no other court of pleas or judicature whatsoever, to summon and call and upon refusal to bee apprehended and brought before him or them, any person or persons which have or doe refuse or neglect to pay any creditor or creditors complaining of his or their debt or debts as aforesaid, with all witnesses which are required by either plaintiff or defendant for the better prooffe, cleareing and opening of the actions aforesaid. And after both parties with witnesses if any be required before him or them are come, to examine, heare, trye, adjudge and finally determine all complaints and actions of debt as aforesaid, before him or them brought, and after determination, execution upon the goods and chattels of the defendant to the full vulture of the debt due and the cost and charges hereafter in this act provided to be paid, to cause to be leavyed, and for want of goods and chattels, the body of the defendant or defendants to the common goal to comamit, untill he or they shall have paid his or their debts as aforesaid, according to the usual process now practised in the court of pleas.

And bee it further enacted that all and every constable or constables, shall cause all goods and chattels taken in execution by virtue of this act to be appraised by two or more of the neighbouring freeholders and the surplus if any bee, to bee to the owner returned. And all constables to whom either original warrants, subpoena or summons for witnesses or execution upon the goods and chattels or the body of the defendant or defendants as aforesaid are directed by any one or more of the justices of the peace, are hereby impowered and commanded to give due obedience in execution thereof, according to the true intent and meaning of this act.

And it is hereby enacted, that all original warrants granted by vertue of this act shall have inserted and plainly signified, the name or names of the plaintiff or plaintiffs, the debt demanded and whether by bill, account, assumpsit or other wyse due, with day of the monthe and as neare as can bee judged what houre of the day dated. *And it is hereby further enacted*, that if any person or persons to bee summoned by vertue of an original warrant to bee granted by this Act, shall by the space of three dayes after soe summoned neglect or refuse to appear before some one or more Justice of the Peace, the Justice or Justices have power and they are hereby impowered, due prooffe by oath thereof being first made, to give judgement against the person or persons neglecting or refusing to appeare as aforesaid for the full debt demanded with costs and charges, and execution to grant as aforesaid.

And if it shall soe happen that the defendant cannot or doth not within six houres after the originall warrant to bee granted by vertue of this Act is granted, appeare before the Justice by whom it was granted or some other Justice before whom the plaintiff may have tyme enough within the said six houres to bee and prosecute his complaint, *It is hereby enacted*, that then and not otherwise, the plaintiff shall have reasonable tyme allowed him after notice given him of the defendant's appearance and before what Justice to bee and prosecute his complaint, and if the defendant doth not attend where hee is by the Justice appoynted till the plaintiff shall bee judged guilty of neglect for want of appearance before whom the matter had otherwise beene tryable, execution shall bee granted against him as if hee had neglected or refused to appeare by the space of three dayes as aforesaid. *And bee it further enacted* by the authority aforesaid, that every Justice shall bee allowed and paid as is before provided for every originall warrant seaven pence halfe-penny, for every subpoena seaven pence halfe-penny, and for every execution one shilling and three pence. And every Constable for every originall

who may issue
execution.

Judgement
by default.

Plaintiff to have
notice when
Defendant
appears before
another Justice.

Fees.

A. D. 1687.

Penalties
appropriated.Proceedings to
be filed in the
Sheriff's office.

execution one shilling and three pence, for every subpoena seven pence halfpenny, for every execution seven pence halfpenny. And if any Justice or Constable shall aske, demand or receive more for any one thing than by this Act is appoynted, hee shall for every penny soe received forfeit the sume of five shillings, due proof by oath being thereof first made to some other Justice, who is hereby made judge thereof and is impowered to leavy the same as other costs and charges before by this Act are hereby ordained to bee leavyed and to dispose of the same as hereafter is by this Act provided, viz: one moyety to the person from whom more than due was soe assessed and received, and the other moyety to bee delivered to the Treasurer of the publicque to bee disposed of for the publicque service and defence of this province. And all Justices are hereby required to keepe records of all matters and causes which in pursuance of this Act they judge and determine, and the same every next Sheriffe's court to the Sheriffe to returne to bee filed in his office, in the same manner and method as all processe issueable in the said court are or usually have been. And the Justices are further required to take receipts from the Sheriffe or his clerke, who are hereby commanded to give such without charge for the records aforesaid. And that all possible meanes may bee used for the more speedy payment of the plaintiff or plaintiffs after execution obteyned against the body of the defendant or defendants, *It is hereby enacted* that any one or more Justices have power and they are hereby impowered in all such cases where hee or they shall judge the defendant not worth the debt recovered as aforesaid, then and not otherwise by and with the consent of the defendant or defendants him or them to hire to labour att soe much per diem as either the plaintiff or any other indifferent person will allowe untill the whole debt by the produce thereof bee paid, which produce the Justice or Justices are hereby required to cause to bee employed to noe other use but the payment of the debts aforesaid.

*Read three tymes and ratified in open Parliament, the
9th Aprill, 1687.*

JAMES COLLETON,
BEN. BLAKE,
JOHN GODFREY,
WM. DUNLOP,
JOSEPH MORTON,
JNO. FARR.

No. 44. AN ACT FOR THE LEAVING AND ASSESSING OF EIGHT HUNDRED POUNDS.

(The original manuscript of this Act is wanting, except the two last clauses, which are as follows.)

John Shelton
Clerk of
Parliament.Voluntary
advances
to be allowed.

And further bee it enacted, that John Shelton is hereby nominated and appoynted Clerk of this Parliament, who is allowed out of the money to bee raysed by this Act after the rate of ten pounds per annum for the tyme hee hath or shall officiate as clerke, and to have all fees and perquisites which to a clerke of parliament doe or may belong. *And it is hereby further enacted*, that all persons that have advanced money, goods or provisions by voluntary advances or unprest, certified and allowed by a Commissioner or Commissioners for that purpose appoynted or by the Grand Counsell, shall bee taken and allowed by discount of their severall tax or taxes by the Receiver, who is to keep a faire account thereof and file

such accounts which shall bee allowed by the Grand Counsell or a quorum of the said Commissioners upon his general account; any thing in this present Act to the contrary notwithstanding.

A. D. 1687.

*Read three tymes and ratified in open Parliament, the
23d day of July, Anno Dom. 1687.*

JAMES COLLETON,
JOHN GODFREY,
JOS. MORTON,
PAULL GRIMBALL,
WM. DUNLOP,
STE. BULL.

Att a Parliament begun and held at Charlestowne for the Province of Carolina the one and twentieth day of July, in the third yeare of the Reigne of our Sovereigne Lord King James the Second over England &c. and in the yeare of our Lord God one thousand six hundred eighty and seven.

AN ACT TO ASCERTAIN THE PRICES OF COMMODITIES OF THE COUNTRYE'S GROWTH.

No. 45.

WHEREAS, for want of ascertaining the rates and prices of the goods of the growth and natural product of this country many tedious and chargeable lawsuits and quarrels have and doe dayly happen between and amongst the inhabitants and merchants of this government, to the great losse and damage of the plaintiff and the great losse and charge of the defendant, for the prevention whereof, *Bee it enacted* by the Pallatine and the rest of the true and absolute Lords and Proprietors of this Province and by and with the advice and consent of the Nobillity and of the Commons in Parliament assembled, that all debts, accounts, contracts, bargains and judgements, and executions thereupon hereafter to bee made, obteyned and done, and which are not made expressly for silver or money or some other particular commodity att a certain price, shall and may bee paid and discharged by Corne att two shillings the bushel, Indian Pease att two shillings sixpence the bushel, English Prices. Pease att three shillings sixpence the bushel, Porke att twenty shillings per cwt., Beefe att twopence the pound, Tobacco att tw*** pence the pound, Tarr att eight shillings the barrell. And all tenders of payment in due tyme made in all or any one or more of the before named commodities att the prices before by this Act appoynted shall in all courts before all judges, justices and magistrates whatsoever bee held and taken for good tender in law. *Provided alwayes*, that this Act doth not continue to bee in force any longer than twenty three monthes from the ratification of the same.

*Read three tymes and ratified in open Parliament, the
23d July, Anno Dom. 1687, Annoq. R. Rs. 3.*

JAMES COLLETON,
JOHN GODFREY,
JOS. MORTON,
PAULL GRIMBALL,
WM. DUNLOP,
STEPHEN BULL.

A. D. 1687.

No. 46. *AN ACT TO ASCERTAIN THE DAMAGE UPON PROTESTED BILLS OF EXCHANGE.*
(See Act No. 39, ante, and the references there.)

Preamble.

WHEREAS it is usual in all parts to encourage the bringing and keeping monye by all direct courses, and that a secure way of exchange is the best expedient to prevent the exportation of money from this province, *Bee it enacted* by the Pallatine and the rest of the Lords and absolute Proprietors of the Province of Carolina, by and with the advice and consent of the Nobility and Commons in this present Parliament assembled and it is enacted by the authority of the same, That all manner of persons that may or shall draw any bill or bills of exchange on any person or persons in Europe which bill or bills may or shall bee returned unpaid and protested by a notary publicque, attested by his hand and under the seale of his office, such person or persons as well drawers of the said bill or bills of exchange as indorser shall bee lyable to the payment of the full sume of moneye exprest in the said bill or bills together with all costs usually allowed by merchants together with twenty-five pounds per cent. advance over and above the principall sume and costs as aforesaid, this to be allowed and recovered in all courts of law and justice held within this province. *And further bee it enacted* by the authority aforesaid, that if any bill or bills of exchange shall bee drawne or charged on any person or persons in the Isle of Barbadoes, Bermuda or any other place in the West Indies or America that shall not find a due acceptance and payment but bee returned, protested under the hand of the person or persons deemed to bee and acting as Notary publicque, that then such person or persons, drawer or indorser of such bills of exchange, shall bee lyable to pay the principal sume drawne for together with the usual costs and fifteen poundes per cent. over and above, in consideration of damage, this to be adjudged and recovered in all the courts of law and justice within this province. *Provided alwayes*, that this Act doe not continue to bee in force any longer than twenty-three monthes from the ratification of the same.

Bills on Europe
twenty-five per
cent. advance.

Bills on the
West Indies, &c.

15 per cent.
advance on
such protested
bills.

Limitation.

*Read three tymes and ratified in open Parliament the 23d daye
of July, A. D. 1687, Annoque Regni Regis 3d.*

JAMES COLLETON,
JOHN GODFREY,
JOSEPH MORTON,
PAULL GRIMBALL,
STE. BULL,
WILL. DUNLOP.

No. 47. *AN ACT FOR THE BETTER REGULATION OF THE MILITIA.—(Not to be found.)*

No original manuscript Acts of the Provincial Assembly are to be found from 1687 to 1690; nor any Act of that period noticed in the catalogues of Ch. Just. Trott or Judge Grimke.

A. D. 1690.

No. 48.

AN ACT FOR ASCERTAINING THE-GOVERNOR'S FEES.

WHEREAS it hath been the custom of all nations and under all governments to take special care for the due support and maintenance of their Chief Magistrate or Governor, and whereas we are verry sencible that the Government of this Province cannot bee carried on with that honnour. and advantage that it ought without much charge and expence to the government, Wherefore, a due regard and consideration thereof being had, and as more speciall and more particular modes of our respects to the right honourable Seth Sothell, Governor, and one of the Lords and absolute proprietors of this province,

Preamble.

Bee it enacted by his Excellency, William Earle of Craven, Pallatine, and the true and absolute Lords Proprietors of the said Province, with the Commons of the same now assembled in Parliament, That the right honourable the present Governor shall have and receive the severall fees hereafter mentioned. *And bee it enacted* by the authority aforesaid, that if any manner of person or persons whatsoever shall from and after the ratification of this Act presume to sell by retayle any sort of brandy, rum, punch, beere, ale, wine or spiritts, or any other sort of licquor whatsoever, without a license first obtained from the honourable Seth Sothell, Proprietor and Governor, and every person which shall sell any liquor as aforesaid without (license) being first obtained as aforesaid, being convict thereof as by this Act is hereafter appointed, shall forfeit the sume of six pounds, twenty shillings whereof shall bee to the informer, the other five pounds to the honourable the present Governor, to bee (****) as hereinafter is appoynted.

Liquors not to be retailed without license.

And bee it hereby enacted, that every Justice of the Peace before whom any such complaint or information shall bee made shall cause the informer to make oath before him, which information upon oath shall bee returned to the Justices of the Court of Pleas at the next court to bee holden, who are hereby required to make further inquiry into the same and upon proofs thereof before them onely shall cause the forfeitures aforesaid to bee leavyed in the same manner and methods as other judgments are usuall and acustomary to bee leavyed in the same court. And every Justice before whom such information on oath shall bee made shall give notice to the under-Sheriff of Berkely County, who is hereby required to give due obedience thereto, to summon the offender as aforesaid, five dayes at least before the sitting of the court, to appear at the next Court of Pleas to be holden to answer the said complaint or information. And if after such notice the offender shall refuse or neglect to appear before the said Justices he shall be held and taken for convict by the said Justices and proceeded against accordingly.

Information to be transmitted to the Court of Pleas.

And bee it further enacted by the authority aforesaid, that all and every person and persons whatsoever except as before excepted who shall from and after the ratification hereof sell any punch in his or their house or houses or sell any wine, brandy, spiritts, beere, ale or any other licquors whatsoever in any quantity or measure whatsoever under the quantity of one gallon, every such person or persons shall bee construed or taken for a retayler and shall bee lyable to all such fines as is containyd in this Act. *Provided alwayes*, and it is the true intent and meaning of this Act, that this Act nor any thing therein containyd doe not extend to any that are inhabitants in the country, who

Persons selling liquors under a gallon to be deemed retailers.

Not to extend to country inhabitants.

A.D. 1690. shall only sell * * * * or other liquors to their servants or workmen or to other persons to be expended in their respective houses or plantations.

THE GOVERNOR'S FEES.

For the signing of a dispatch of every vessel, tenn shillings.
 For a lycence to retayle wine and other liquors, five pounds.
 For a lycence to retayle punch and spiritts, three pounds.
 For signing a testimoniall and seale, tenn shillings.
 For signing every writt or warrant in the Admiralty, tenn shillings.
 For signing a warrant of contempt in the Admiralty, one pound.
 For signing a lycence for marriage, one pound.
 For signing a decree in the Admiralty, one pound.
 For signing letters of administration, one pound.
 For signing a warrant of appraisement, five shillings.
 For signing the probatt of a will, tenn shillings.
 For signing a warrant for land, two shillings and six pence.
 For signing a grant for land, one pound.
 For an injunction in Chancery, one pound.
 For signing a decree in Chancery, tenn shillings.
 For signing a ticket for each person that is capable of contracting of debts, going off, two shillings and six pence.
 For prohibition in the Admiralty, one pound.
 For a lycence to retayle spiritts distilled here, five shillings.

Provided alwayes and bee it further enacted by the authority aforesaid, that this Act nor any thing therein conteyned shall continue to bee in force any longer than during the tyme the right honourable Seth Sothell, Proprietor, bee our Governour, or to the end of twenty-two monthes which shall happen first after the ratification of this Act.

*Read three tymes and past and ratified in open Parliament
 the 22d day of Dec. 1690.*

SETH SOTHELL,
 JOHN BERESFORD,
 JOHN HARRIS.

No. 49. *AN ACT* FOR THE BETTER SETTLING AND REGULATING OF THE MILITIA.
(See last volume.)

No. 50. *AN ACT* FOR THE SETTLING AND CONTINUEING A WATCH IN CHARLES-TOWNE.—*(See last volume.)*

No. 51. *AN ACT* FOR THE RAISEING OF A FUND OF MONEY FOR THE MAINTAINING OF A WATCH ON SULLIVAND'S ISLAND.

Preamble.

WHEREAS their Majesties' subjects the inhabitants of that part of this province that lyeth south and west of Cape Feare and under this government, bee obnoxious both by sea and land to the incursions and invasions of forreigne enemies and others who daily threaten their ruine, For the better prevention thereof and for feare of surprisal in those parts of this province which lyes most open to the invasion of the said

enemies: And whereas a watch is wanting in such places of this province and more particularly in Berkeley County, to bee put and kept in such places as may att a distance discover any number of ships or vessels that may come to invade this province or any part thereof: And whereas Sullivand's Island is hereby appointed for the place of keeping a watch to give notice by signes hereafter appointed to bee given, of every ship or ships, vessel or vessels that shall or may approach neare Ashley river: And whereas a fund is wanting for the maintaining of the said watch:

A. D. 1690

Bee it therefore enacted by his Excellency William Earle of Craven, Pallatine, and the rest of the Lords and absolute Proprietors of this province and with the advice and consent of the Commons in this present Parliament assembled, and it is hereby enacted, that a tax of two shillings and six pence current money of this province shall bee raised and leavyed on all his majestie's subjects, freemen and white servants, above sixteen yeares of age, dwelling and being in Berkeley County and not elsewhere, which several sumes aforesaid shall bee leavyed and paid unto every Constable in his respective division, in good current money of this province, which said Constables are hereby impowered and authorized to require and demand the said tax from all and every person and persons aforesaid dwelling and living in their respective divisions; and if any person or persons shall refuse to pay for themselves or servants it shall and may bee lawful after twenty dayes notice by the said Constable or Constables given, for any Justice of the Peace of the county aforesaid and they are hereby impowered upon complaint made on oath by any one of the Constables aforesaid, to issue a warrant to the said Constable or Constables to leavy the goods and chattels of any such person or persons soe refusing and them to have appraised by two of his neighbours upon their oaths, and the aforesaid tax and constable's charges of leavying the said goods being first taken out, the overplus to bee restored to the owner. *And bee it further enacted* by the authority aforesaid, that James Stonyairne and John Joseph Pendarvis bee receivers of all the money to bee leavyed by virtue of this Act as aforesaid, and all and every Constable for Berkeley County is hereby required and commanded to deliver all the sume of money leavyed by them in their respective districts within forty dayes after orders from the said Receivers, with a list of the persons soe paying, to the said Receivers at Charlestowne, who shall give them receipts for all such sumes as they shall receive from them. *And bee it further enacted*, that the above said tax soe raised shall bee employed to the paying and maintaining of three men to bee kept upon and constantly employed in keeping a watch on Sullivand's Island for and during the term of one whole yeare, to begin in twenty dayes after the ratification of this Act, which said persons shall bee furnished from time to time as their occasions shall require by the aforesaid Receivers with money or other necessaryes for the enabling them in their duty. And the said Receivers are hereby required to find such persons as will undertake the watch at the said Island and as aforesaid and to give them in charge the making of one or more fires, as they shall think convenient for the acquainting of the Towne of the number of any ship or ships, vessel or vessels that shall appeare, and upon neglect of any part of the said watche's duty they shall bee deemed guilty of felony. And upon the payment and disbursement of the said money, to bee made as aforesaid, the Receivers are hereby required to keep just and faire accounts and them to have ready at all times to present to this house at their next meeting, if thereunto required; and after the

Tax to be
levied.Fine on
nonpayment.Receivers
appointed.Application
of the TaxOverplus to be
brought to the
Assembly.

A. D. 1690.

accounts are made up, the overplus of the money raised as aforesaid if any there bee, shall bee brought into this house to bee disposed of on such publick occasion as to the house shall seem good.

Fine on
Constables
neglecting
duty.

And it is hereby further enacted by the authority aforesaid, that all Constables of the County aforesaid shall have and are hereby allowed one shilling in the pound for their paines in collecting the aforesaid tax. And if any of the said Constables shall refuse or neglect their duty after an order to them respectively sent by the Receivers of the aforesaid tax, that then and in such case they shall forfeit the sume of forty shillings, to bee leavyed on their goods and chattels by a warrant under the hand and seale of any Justice of the Peace of the said County upon the complaint of any of the Receivers, which fines the Receivers shall alsoe take into their custody and take notice of them in their accounts.

Fine on
Receivers
neglecting
duty.

And it is further enacted by the authority aforesaid, that the said Receivers shall have and are hereby allowed two shillings in the pound for their trouble and care in receiving, disbursing and procureing the Watchmen aforesaid. And in case the said Receivers as aforesaid shall neglect or refuse to procure the said watch or doe anything contrary to the true intent and meaning of this Act, shall forfeit for every such default fifty pounds sterling, to bee recovered by bill, plaint or information in any court of this province, one moyety whereof shall bee to him or them that shall sue for the same, the other halfe to the publick use of this province.

*Read three tymes and past and ratified in open Parliament,
this 22d day of December, 1690.*

SETH SOTHELL,
JOHN BERESFORD,
G. MUSCHAMP,
JOHN HARRIS.

No. 52. AN ACT FOR THE RAISEING OF A PUBLICK STORE OF POWDER FOR THE USE OF THIS PROVINCE.

Preamble.

WHEREAS, for the better prevention of danger in these times of warr with the French King and the dayly hostilities continually committed by the subjects of the said King, whereby this province with other their Majesties plantations in America are in great danger, and whereas it is absolutely necessary in order to the future security and defence of their Majesties subjects and all ships and vessells tradeing to and from this province that there bee a publick store of powder always in readiness, *Bee it therefore enacted*, by his Excellency William Earle of Craven, Pallatine, and the rest of the Lords and absolute Proprietors of this province and by and with the advice and consent of the Commons of the same now assembled in Parliament and it is enacted by the authority aforesaid, that all and every master and commander of all and every ship and ships, vessell or vessells that now are or that shall come into any port or harbour belonging to this government from and after the publication of this Act, shall make a true and just entry in the Secretary's office of the burthen or tunnage of his or their ship or vessell; and every such master or commander shall pay and deliver the full and just quantity of half a pound of good, cleane and serviceable Gunpowder for every and each tunn that his or their ship or vessell shall and doth measure and containe by the rule. And for want of such powder to bee soe delivered as aforesaid, the master or masters

Duty laid of
half a pound of
powder per
tunn of the
vessel.

commander or commanders shall pay or cause to bee paid in current silver of this province the full sume of fiteene pence for each and every tunne which his or their ship or ships, vessell or vessells doth or shall measure by the rule or containe as aforesaid.

A. D. 1690.

And it is further enacted by the authority aforesaid, that this present Governor shall have power and hee is hereby impowered from time to time to appoint such person or persons whom hee shall think fit for the receipt of all such quantity or quantites of powder or all such sumes of money in lieu thereof which shall bee due by virtue of this Act from any master or masters, commander or commanders, for the tunnage of his or their ship or ships, vessel or vessels as aforesaid, which officer soe appoynted for such quantity or quantites of powder or sume or summes of money shall receive to his own use ten pounds of powder for every hundred weight soe received as aforesaid.

Pay of the Receiver.

And it is further enacted by the authority aforesaid, that in case any master or masters, commander or commanders of any ship or ships, vessel or vessels doth or shall make a false or short entry of the tunnage of his or their ship or vessell, contrary to the true intent and meaning of this Act, that in such case the person or persons soe appoynted by the Governor for the receiving of the powder or the money as aforesaid shall and may and is hereby impowered to send a sworn surveyor on board any such ship or vessell the master or commander whereof is suspected to have made a false or short entry of her tunnage, and such surveyor is to measure the said ship or vessell and whatever it shall appeare to bee and containe over and above what she was entered for, the master or commander shall pay or deliver for every tunne soe entered short the quantity of * * * pound of powder, or five shillings and six pence current silver over and above what was due upon the first entry, and alsoe the Surveyor shall have and receive from each master or commander for his paines and trouble, the summe of tenn shillings current money. But in case it shall appeare on the measurement of any ship or vessell that she doth not containe more tunnes than she is entered for, then the master or commander of such ship or vessell shall not bee obliged to pay unto the surveyor any fee for his worke or paines in measuring the said ship or vessell.

Fine in case of false entry of tunnage.

And it is further enacted by the authority aforesaid, that if any master or commander of any ship or vessell shall neglect, refuse or deny to pay and deliver all such quantity or quantites of powder or sumes of money which shall bee due from him or them by vertue of this Act unto the person or persons appoynted by the Governor for the receiving thereof, in such case it shall and may bee lawful for the Provost Marshall by vertue of a warrant under the Governor or Secretary's hand and seale, to bee given on the complaint of the treasurer, to arrest the person of such master or commander or to attach his or their ship or vessell, and the said ship or vessell shall bee held or continued in the custody of the law, or the person of the said master or commander shall bee held in baile or mainprize, untill the said master or commander hath paid and delivered into the custody of the person or persons appoynted by the Governor as aforesaid all such quantity or quantites of powder or all such summe or summes of money as shall bee due by vertue of this Act from him or them for the tunnage of his or their ship or vessell with all the costs and charges that shall and may accrue by the reason of the nonpayment as aforesaid.

Masters of vessels neglecting to pay the tax.

And hee it further enacted by the authority aforesaid, that the person or persons who shall bee appointed by the Governor to receive all such powder or money which shall bee due by vertue of this Act, hee or they shall bee obliged to keepe a faire book of accounts alwayes ready to bee kept.

Books to be kept.

A. D. 1690.

perused by the Governor, **** still accountable to the Parliament next assembled, in which account hee or they shall mention particularly the amount received from every person or persons with their name or names, and alsoe the name of the ship or vessel, with the time of her departure. And the receiver and receivers appoynted as aforesaid shall not part with any of the powder or money which hee or they shall receive by vertue of this Act without an order under the hand of the Governor, which order shall bee received and allowed of upon his or their accounts.

Money to be
laid out in
powder.

And bee it further enacted by the authority aforesaid, that whatever summe or summes of money shall bee received in lieu of any powder by vertue of this Act, all and every part of the money soe received shall not bee disposed of or imployed to or for any other use whatsoever than for the buying of powder for the publick defence and security of the country.

Limitation.

And bee it further enacted by the authority aforesaid, that this Act and every thing herein conteyned by the authority of this present parliament are enacted to continue in force one and twenty monthes and noe longer from the ratification of the same.

*Read three tymes and past and ratified in open Parliament,
the 23d day of December, 1690.*

SETH SOTHELL,
JNO. BERESFORD,
G. MUSCHAMP,
JNO. HARRIS.

No. 53. *AN ACT* TO DISABLE JAMES COLLETON, ESQ. LATE GOVERNOR OF THIS PART OF THE PROVINCE, FROM BEARING OR EXERCISING ANY AUTHORITY EITHER MILITARY OR CIVIL IN THIS PART OF THE PROVINCE, AND FOR HIS DEPARTING THE SAME.

Preamble.

WHEREAS, James Colleton, Esq., late Governor of this part of the province, did make articles of warre and erect and establish martial law, and the same did cause to bee published at the head of every company of the militia of that part of the province, under the paines of death and other penalties as in the said Act is sett downe and required, and the same did enforce and put in execution upon and against divers of their Majestie's peaceable subjects inhabiting this province, to the apparent breach of their liberties, properties and priviledges, and to the dread and terror of their majesties subjects, notwithstanding that at that time there was noe danger or appearance of any forraigne invasion or any domestick rebellion, tumult or sedition.

Bee it therefore enacted, by his Excellency William Earle of Craven, Pallatine, and the rest of the Lords and absolute Proprietors of this province by and with the advice and consent of the Commons in this present Parliament assembled and by the authority of the same, that the said James Colleton shall not at any time from and after the ratification of this present Act exercise any publick office, charge or trust, either military or civil, either of honour or profit in this province, but shall bee utterly disabled to exercise the same by himself, his substitute or deputy.

Prohibited
from all offices
of honour or
profit.

And bee it further enacted and declared by the authority aforesaid, that in case the aforesaid James Colleton shall assume or take upon him to exercise any place of trust, charge or office as aforesaid in this part of the province, contrary to the true intent and meaning of this Act, that any act or acts, thing or things done by colour or pretence of his said office,

charge, or place of trust, either by himself, his deputy or substitutes, is hereby declared void, null and of noe effect, to all intents and purposes whatsoever. A. D. 1690.

And bee it further enacted by the authority aforesaid, that the said James Colleton doe depart this province for England on or before the foure and twentieth day of February next ensuing, and that hee doe on the first day of Michaelmas term next after the ratification of this Act, render himselfe at the King's bench barr at Westminster in the kingdome of England, and there give sufficient baile of ten thousand pounds sterling to answer all manner of chardges that are, may or shall bee exhibited against him, as well on behalfe of our gracious Sovereignes King William and Queen Mary as on behalfe of all their Majesties free people of this province or any other person or persons by them commissioned to that purpose. To enter into bail at the King's bench, Westminster.

And bee it further enacted by the authority aforesaid, that the said James Colleton bee in the mean time committed and is hereby committed to the custody of Edward Rawlins Marshall, one of the Messagers of this house, who is hereby authorized and required to take the said James Colleton into his custody and there to keepe and continue him as a prisoner by authority of this parliament, who shall not bee from thence discharged untill hee have given sufficient security in tenn thousand pounds sterling, to the intent and purpose as in this Act is required and expressed. To be held to bail in £10,000.

And bee it further enacted by the authority aforesaid, that the right honourable Seth Sothell, Esq. one of the Lords and absolute proprietors of this Province and Governor of the same, together with Collonel Andrew Percivall, Lieutenant Collonel Robert Quarles, Capt. Jas. Moore, Ralph Izard, Job Howes, Esq. or any four of them, provided the Governor bee one, are hereby authorized and impowered on good and sufficient security to take baile for him the said James Colleton, in the name of the right honourable Seth Sothell, Esq. Governor, upon the penalty of tenn thousand pounds sterling, the condition of which obligation shall bee such, viz: that the above bounden James Colleton doe depart this province for England on or before the foure and twentieth day of February next, according to the purport, true intent and meaning of an Act of Parliament entitled An Act for disabling James Colleton, Esq. late Governor of this part of the province, from bearing any authority either military or civil within this part of the province, and for his departing the same; and that in the meane time hee doth well and truly keepe their Majesties peace and bee of good behaviour towards all and every the inhabitants of this province, that then this present obligation to bee void and of noe effect, otherwise to abide, bee, and remaine in full force and vertue. To give bond to persons herein named.

And bee it further enacted by the authority aforesaid, that if the said James Colleton shall not give such security as is before in this Act required, nor depart this province at the time limited, according to the true intent and meaning of this Act, or shall in any wise offend contrary to this Act or any clause, article or thing therein conteyned, hee shall forfeit the sume of five thousand pounds sterling, to bee leavyed on his goods and chattels by warrant of distresse under the hand and seale of the honourable Seth Sothell, Esq. Governor, or under the hand and seale of the Governor for the time being, who is by this Act impowered and required to grant the same directed to the high Sheriffe of Berkeley County, who is hereby likewise impowered and required by vertue thereof to take and distraine the goods and chattels of him, the said James Colleton, and the distresse or distresses soe taken to drive and carry away, and upon such distresse as aforesaid to impanell a jury of able and sufficient freeholders of the said County who are hereby likewise required on their oaths

A. D. 1690.

well, truly and indifferently to appraise and vallow the several goods and chattels soe taken and distrained by the said Sheriffe, who is hereby required to take a true and perfect inventory thereof by indenture, between the said sheriffe and jury, which said indented appraisement the said high sheriffe shall returne to the parliament at their next sessions, and the said goods and chattels to bee by them disposed of for the publick use and benefit of this part of the province. Provided alwayes, that if the said goods and chattels amount to more than the sume of five thousand pounds sterling that the overplus, after the charges of leavying, distraining and appraising the same, shall bee returned to the owner.

And bee it further enacted by the authority aforesaid, that if any dispute shall arise concerning any clause, word, sentence or article conteyned in this present Act, in any court or courts, that the judges are hereby required to construe the same in favour of this Act.

*Read the third tyme and past and ratified in open Parliament
- this two and twentieth day of December, 1690.*

SETH SOTHELL,
G. MUSCHAMP,
JNO. HARRIS,
JNO. BERESFORD.

No. 54. *AN ACT* TO EXPLAINE SEVERAL CLAUSES AND WORDS OF AN ACT OF PARLIAMENT ENTITLED AN ACT TO DISABLE JAMES COLLETON, ESQ. LATE GOVERNOR OF THIS PART OF THE PROVINCE, FROM BEARING OR EXERCISING ANY AUTHORITY EITHER MILITARY OR CIVIL WITHIN THIS PART OF THE PROVINCE, AND FOR HIS DEPARTING THE SAME.

WHEREAS, in the Act aforesaid it is enacted that James Colleton doe depart this province for England at or before the foure and twentieth day of February next ensuing, and that he doe on the first day of Michaelmas terme next after the ratification of the said Act, render himselfe at the King's bench barr at Westminster in the Kingdome of England, and then and there give sufficient bayle of tenn thousand pounds sterling, to answer to all and all manner of charges that are, may or shall be exhibited against him, as well on behalfe of our most gracious Sovereignes, King William and Queen Mary, as on behalfe of all their Majesties free people of this Province or any other person or persons by them commissioned to that purpose. As well therefore that the aforesaid clause may be taken and understood in such sense and meaning as is hereafter in this act explained and limitted as at the motion and request of the said James Colleton, *It is enacted*, by the right honourable William, Earle of Craven, Pallatine, and the rest of the Lords Proprietors of this Province, by and with the advice and consent of the Commons, in this present Parliament assembled, and it is hereby enacted by the authority of the same, That the said James Colleton, Esq. shall depart this Province for England at or before the foure and twentieth day of this instant February, and that he doe at or before the first day of Michaelmas terme next after the ratification of this Act, render himselfe in the Kingdome of England, to the right honourable William, Earle of Craven, Pallatine, or to the Pallatine for the time being, and to the rest of the Lords Proprietors of this Province and to such Magistrate or Magistrates, Officer or Officers which by law are

qualified to take the same as their Lordships shall nominate and appoynt, to give in tenn thousand pounds bayle if required to bee and appeare at their Majesties Counsell table or at the Kings bench barr or at such other court or courts as in the like case is usual and customary, to answeere to all and all manuer of charges that are, may or shall be exhibited against him, as well on behalfe of their Majesties King William and Queene Mary as on behalfe of their Majesties poeple of this Province, by the then right honorable Pallatine and the rest of the Lords Proprietors or by any person or persons by the free people aforesaid thereunto authorized and commissioned.

A.D. 1690

Variations from
the former Act.

And bee it further enacted by the authority aforesaid, that if the aforesaid James Colleton shall refuse or omit to fulfill any and every clause, article and thing in this Act contayned, or in any wise offend contrary to the true intent and meaning thereof bee shall forfeit the summe of five thousand pounds sterling to be leavyed on his goods and chattels in the same manner and method and by the same persons and disposed of to the same use and by the same persons as the forfeitures (if any bee) by an Act entitled an Act to disable James Colleton, Esq. &c. are ordained and appoynted.

*Read three tymes, past and ratified in open Parliament,
this 7th day of February, Anno Dom. 1690.*

SETH SOTHELL,
G. MUSCHAMP,
JN. BERESFORD,
JN. HARRIS.

AN ACT FOR THE TRYALL OF SMALL AND MEANE CAUSES.
(See Acts No. 38, 43, 88.)

No. 55.

BY reason of the many Assistants, Officers, Jurors and sub-Officers, that doe and must necessarily attend the Sheriffe's Court and Court of Pleas, the fees and charges doe in most actions of debt of lesser value surmount the debt sued for in the aforesaid courts, whereby the defendant is sometimes utterly disabled (to the plaintiff's great damage and the frequent ruin of the defendant,) to pay either the principal debt or the necessary or usual fees belonging to the courts or officers where the aforesaid pleas are and otherwise ought to be heard and tryed, for the future prevention whereof, *Bee it enacted*, by his Excellency, William Earle of Craven, Pallatine, by and with the advice and consent of the present Parliament assembled, and by the authority of the same, that any one or more Justices of the Peace shall have power, and they are hereby impowered by their warrants under their hands and seales directed to some one of the Constables, in all actions of debt under forty shillings of lawful money of England or vallue thereof, which actions are hereby made issueable and tryable only before a Justice or Justices as aforesaid, and in noe Court of Pleas or Judicature whatever, to summon and call and upon refusal to cause to be apprehended and brought before him or them, any person or persons which have or doe neglect or refuse to pay any Creditor complaining of his or their debt or debts as aforesaid, with all witnesses that are required by either plaintiff or defendand for the better prooffe, cleareing and opening the actions aforesaid, and after both parties with witnesses (if any bee required) before him or them are come, to examine, heare, trye, adjudge and finally determine the complaints and actions of debt aforesaid

Actions under
40s. to be tried
by a Justice of
Peace.

A. D. 1690.

before him or them brought, and after determination, execution upon the goods and chattells of the defendant to the full vallue of the debt due and the costs and charges after in this act provided to be payed to cause to be leavyed, and for want of goods and chattells the body of the defendant or defendants to the common goale to committ till he or they shall have payd his or their debts as aforesaid according to the usual processe as practised in the courts of Pleas.

And it is hereby enacted, that all and every Constable or Constables shall cause all goods and chattells soe taken in execution by vertue of this act to be appraised by two or more of the neighboring freeholders, and the overplus, if any there be, to be to the owners returned. And all Constables to whom either original warrants, subpœnas, summons for witnesses, or executions upon the goods and chattells or the body of the defendant or defendants are directed by any one or more Justice or Justices of the Peace, are hereby required and commanded to give due obedience in execution thereof according to the true intent and meaning of this Act.

Process to
contain dates
and names.

And it is hereby enacted, that all original warrants granted by vertue of this Act shall have inserted and plainly signified the name or names of the plaintiff or plaintiffs, the debt demanded, and whether it be by bill, account, assumpsit or otherwise due, with the day of the monthe and as neare as can be judged what houre of the day dated.

Judgement on
default.

And it is hereby enacted, that if any person or persons to be summoned by any original warrant to be granted by this act shall by the space of three dayes after soe summoned neglect or refuse to appeare before some one or more Justices of the Peace, the Justice or Justices shall have power and they are hereby impowered, due prooffe on oath being first made, to give judgement against the person or persons neglecting or refusing to appeare as aforesaid, for the summe demanded, with costs and charges, and execution to grant as aforesaid. And if it shall appeare that the defendant cannot or doth not within six houres after the original warrant to be granted by vertue of this Act appeare before the Justice by whom it was granted or some other Justice of the Peace before whom the plaintiff may have time enough within the six houres to prosecute his complaint, *It is hereby enacted* that then and not otherwise the plaintiff shall have reasonable time allowed him after notice given him of the defendant's appearance, and before what Justice, to be and prosecute his complaint, and if the defendant doth not attend where he is by the Justice appointed till the plaintiff be adjudged guilty of neglect for want of appearance, by the Justice before whom the matter had otherwise been tryable, execution shall be granted against him as if he had neglected or refused to appeare by the space of three dayes so as aforesaid.

Fees.

And it is further enacted, by the authority aforesaid, that every Justice or his Clerk, shall for each warrant receive seaven pence halfepenny, and for every execution fifteen pence. And that every Constable for every original warrant executed shall be allowed one shilling and three pence, and for every subpoena, seaven pence halfepenny, and for every execution fifteen pence. And that all possible meanes may be used for the payment of the plaintiff or plaintiffs after execution obtained against the body of the defendant or defendant's, *It is hereby enacted*, that any one or more Justices have power and they are hereby impowered in all such cases where he or they shall judge the defendant not worth the debt recovered as aforesaid, then and not otherwise, by and with the consent of the defendant or defendants, him or them to hire to labour at soe much per diem as either the plaintiff or any indifferent person will allow untill the whole debt by the produce thereof be paid, which produce the Justice or

Justices are hereby required to cause to be employed to noe other use but payment of debts as aforesaid. A. D. 1690.

Provided alwayes that this Act nor any thing therein containd shall be in force any longer than during the space of eighteen months from the ratification thereof.

*Read three tymes and past and rutified in open Parliament,
the seaventh day of February, Anno Dom. 1690.*

SETH. SOTHELL,
G. MUSCHAMP,
JN. BERESFORD,
JN. HARRIS.

**AN ACT FOR MAKING AND MENDING HIGHWAYS AND PATHS AND FOR
CUTTING OF CREEKS AND WATER COURSES.** (See last volume.) No. 56

AN ACT FOR THE BETTER ORDERING OF SLAVES. (See last volume.) No. 57.

**AN ACT FOR THE DISABLING OF THE SEVERAL PERSONS THAT DID SETT
UP AND ADVISE THE SETTING UP AND EXECUTING MARTIAL LAW.** No. 58.

WHEREAS, Lieut. Col. Ste. Bull, Major Charles Colleton, Paul Grimball, Esq. together with Landgrave James Colleton, late Governor of this part of the Province, did make articles of warr and erect and establish Martial Law, and the same cause to be published at the head of every company of the militia of this part of the Province, under the paines of death and other penaltys as in the said articles is sett downe and required, and the same did enforce and put in exeecution against divers of their Majesties peaceable subjects inhabiting in this province, to the apparent breach of libertys, propertys and privileges, and to the dread and terrour of their Majesty's subjects, notwithstanding at the time there was noe appearance of any forraigne invasion or any domestick rebellion, tumult or sedition, and that at the same tyme all the Courts of Justice were opened and alwayes after continued to be so. And whereas, Thomas Smith, senior, Esq. did by composing, inventing, writing and publishing, as by him confest, a certaine Petition, entitled The Petition of divers of their Majesty's subjects and inhabitants of Charlestowne and parts adjacent, and by other means move, stirr, encourage, advise and persuade the said Stephen Bull, Charles Colleton, Paul Grimball and James Colleton, to exercise and establish law martiall, contrary to law and the priviledges of their Majesty's subjects as aforesaid. Preamble.

Be it therefore enacted by the Pallatine and the rest of the Lords and absolute Proprietors of this Province, by and with the advice and consent of the Commons of this present Parliament assembled, and by the authority of the same, that the said Stephen Bull, Charles Colleton, Paul Grimball and Thomas Smith, shall not att any tyme after the ratification of this Act, exercise any publick office or charge, either military or civill, either of honour, profit or trust in this Province, but shall be utterly disabled and are hereby rendered and made incapable to exercise the same by him or themselves, their substitutes or deputies. And if any one of the afore-

Exclusion from
office.

A. D. 1691.

said persons in any way offend contrary to this Act or any clause therein contained, he or they shall forfeit the summe of one thousand pounds sterling, one moyety whereof shall be disposed of by the Parliament, and the other moyety to him or them that shall sue for the same by any action of debt, bill, plaint, or information, in any of the Courts of this Province, wherein noe Essoin, Protection, Injunction or Wager in law shall be allowed or admitted of.

Penalty.

And it is further enacted and declared by the authority aforesaid, that in case the forenamed Stephen Bull, Charles Colleton, Paul Grimball and Thomas Smith, or any or either of them, shall assume or take upon him or them to exercise any place of trust, charge or office as aforesaid, in this Province, contrary to the true intent and meaning of this Act, that any act or acts, thing or things, done by colour or pretext of their said office, charge or place of trust, or by his or their deputy or substitutes, is hereby declared null, void and of noe effect to all intents and purposes whatsoever. Provided alwayes, and it is the true intent and meaning of this present Act, that this Act shall not continue to be in force any longer than two yeares, unless the Lords Proprietors shall thinke fitt to continue it longer.

Read three tymes and ratified in open Parliament (after the interlining of the word "writeing" between the sixteenth and seventeenth line of the first page,) this twenty-fifth day of March, Annoque Domini 1691.

SETH SOTHELL,
G. MUSCHAMP,
JN. BERESFORD,
JN. HARRIS,
JN. FARR,
WILSON DUNSTON.

Att a Parliament begun and held att Charlestowne, att the house of Mr. Anthony Lawson, on the nineteenth day of March, Anno Domini 1690, and in the third yeare of the reigne of our Sovereigne Lord and Lady, King William and Queen Mary, over England, &c.

No. 59.

AN ACT FOR THE SETTLING OF PILOTAGE.

Three regular
Pilots appointed.

WHEREAS the want of Pilots for the better security of ships and all other vessels that may be intended into Ashley river, may greatly conduce to the prejudice of this hopeful settlement, and forasmuch as there is noe provision made for the same, *Be it therefore enacted* by the Pallatine and the rest of the Lords and absolute Proprietors of this Province, by and with the advice and consent of the Commons in this present Parliament assembled, and it is enacted by the authority of the same, that Capt. John Cock, Capt. William Privitt and Mr. William Bradley, now of this Province, are hereby authorized, constituted and appointed to be Pilots of and for all and every, the ships and other vessels whatsoever, that may happen and shall be desirous to come into the said Ashley river; and the said Cock, Privitt and Bradley and every of them, are hereby required to make it their business to looke out for and repaire on board, and take care of and discharge the parts, place, care and charge of Pilots, on and upon any and every ship or vessel that shall be desirous to come into Ashley river aforesaid.

And it is enacted by the authority aforesaid, that if any person or persons that shall come designing to bring any ship or vessell into the said river, shall and doe refuse to receive on board the said Pilots, or any of them, as aforesaid, that nevertheless, it shall or may be lawful for the said Pilot which shall first come to the said vessell without the barr, and offer to take charge as Pilot thereof, to aske, demand and receive, of and from the Master or Commander of any and every such ship or vessell, all and every, the dues and payments, as is hereafter expresst and provided, in as full and ample a manner as if he had brought the said ship or vessell into the said river.

A. D. 1690.

Pilots entitled to pay if they offer to bring the vessel in.

And it is further enacted by the authority aforesaid, that if any ship or vessell whatsoever, shall happen to receive any damage, miscarry or be lost through the negligence, insufficiency or any other defect in or by such of the Pilots as shall take charge of the said vessell, that then and in such case, the Pilot or Pilots soe taking charge, shall answer for and make good all and every the damages and losses sustained and done as aforesaid.

Where loss or damage happens to a vessel, the Pilot liable.

And it is further enacted by the authority aforesaid, that if any other person or persons not named in this Act, shall presume to undertake the care and charge of a Pilot, and shall bring into the said river any ship or vessell whatsoever, that he or they soe presuming and undertaking, shall not have or receive any reward, but shall be and are lyable to pay and make full satisfaction for all and every the damages and miscarriages, that shall or may happen by such their presumptions and undertakings as aforesaid.

Persons not licensed Pilots not entitled to pay.

And it is further enacted by the authority aforesaid, that the Master or Commander of any and every ship and vessell, for and in consideration of the Pilotage of his ship or vessell, shall pay unto him or them of the said Pilots, that shall take charge as aforesaid, such summe and summes of money as is hereinafter expresst and appointed by this Act, as full and ample satisfaction unto the said Pilot for his care and charge, as well for the carrying out as the bringing in of any ship or vessell aforesaid, that is to say, the Commander or Master shall pay unto the said Pilot or Pilots for any ship or vessel of the draught or depth of seaven feete or under in the water, when bound out of the said river, the sum of forty shillings currant money of this province, and for any and every ship or vessell that shall draw more than seaven feete the summe of twenty shillings for every foot exceeding the said seaven feete, together with the said summe of forty shillings, being the summe above appointed for the bringing in and carrying out every ship or vessell not exceeding seaven feete as aforesaid, which payment shall be in full as well for the carrying out as bringing in of every ship or vessell aforesaid; and if it shall soe happen that any ship or vessell shall draw above seaven feete as aforesaid, and that the draught soe amounting be not to a just foot or number of feete, then the overplus shall be paid in the equal proportion of each foot soe exceeding seaven feete aforesaid. *Provided* alwayes, and the true intent and meaning of this Act is, that noe Master or Commander of any ship or vessell whatsoever, shall be obliged to pay the Pilotage aforesaid, unlesse the Pilot or Pilots shall without the barr tender him or themselves, or endeavour the same as Pilots of the said river, any thing in this Act contained to the contrary notwithstanding.

Rates of Pilotage.

To appear in character as Pilots.

And it is further enacted by the authority aforesaid, that if the Commander or Master of any ship or vessell, shall neglect, refuse or denye to pay or secure to be paid, all and singular the aforesaid summe or summes of money, in such case it shall and may be lawful for the Pilot

Remedy for nonpayment of Pilotage.

A. D. 1691.

or Pilots aforesaid, to attach the said Commander or Master, or his or their ship or vessell, soe that his said ship or vessell shall be held and continued in the custody of the Law, or the said Commander or Master, untill the said Pilot or Pilots shall be fully satisfied and payd or secured to be payd as aforesaid, together with all the costs that shall accrew by reason of the nonpayment aforesaid.

And it is further enacted by the authority aforesaid, that all and every ship or vessell whatsoever, that doth or shall wholly belong to any freeholder or freeholders, inhabiting in this part of this Province, shall not be obliged to pay any Pilotage by vertue of this Act, nor are the Pilots hereby obliged to bring them in, unlesse required by the Master or owner of any such ship or vessell, any thing herein contained to the contrary notwithstanding. *Provided* alwayes that this Act be not in force any longer than during the time and space of twenty-five months from the ratification hereof.

*Read three tymes, past and ratified in open Parliament this twenty-fifth day of March, Anno Domini 1691.**

SETH SOTHELL,
G. MUSCHAMP,
JOHN BERESFORD,
JOHN FARR,
JOHN HARRIS,
WILSON DUNSTON.

No. 60. **AN ACT INHIBITING THE TRADEING WITH SERVANTS AND SLAVES.**
(See Act No. 34, and the references there made.)

Preamble.

No free person
to deal with a
servant or
slave.

FORASMUCH as there hath been of late several indirect bargains betweene freemen, servants and slaves, amongst themselves, wherein some evil disposed have adventured privately to embeazle and sell their masters goods, to the impoverishing of their masters, and the nourishing and encreasing of vice in this province, For the prevention whereof for the future, and for the rectifying divers other disorders and enormatyes, and that the more civilly minded servants and slaves may not be induced to the same, *Be it enacted* by his excellency the Pallatine, and by the rest of the Lords and absolute Proprietors of this Province, and by and with the advise and consent of the Commons in this present Parliament assembled, and by the authority of the same, That from and after the ratification hereof, it shall not be lawful for any freeman or free servant or slave, to buy, sell, barter, bargain, contract or exchange any manner of goods or commodities whatsoever, of or to or with any servant or servants in this Province, during their tyme of servitude, without the privity or consent of the master, mistress or overseer of such servant or servants, slave or slaves; and any person offending in any manner as aforesaid, shall be liable, both buyer and seller, if servants, to serve each of their masters one whole yeare more than their contracted time, being brought before any three Justices of the Peace and being by them convicted of dealing as aforesaid, an account thereof being returned to the Grand Councill at their next sitting.

*The caption is in the year 1690, the ratification states the year 1691. That is, the 19th of March was in the civil year 1690. The civil year does not commence till March 25th. The historical year January 1. Parliament met before the civil year was expired, but when the act was ratified the new civil year had commenced.

And it is enacted by the authority aforesaid, that if any freeman or free-woman, at any time from and after the ratification hereof shall or doe buy, sell, bargain, contract, barter or exchange any manner of goods or commodittys whatsoever, with or to any servant or servants, slave or slaves, within this province, and the said goods or commodittys doe rightly belong to the master or masters of such servant or servants, slave or slaves, or any other person or persons whatsoever, such freeman or freewoman soe offending, shall satisfye and pay tenn tymes the vallue, to be recovered by due course of law, to the person whose goods were soe sold and disposed of, and all and every part of the goods and commodittyes soe bought and disposed of, to be returned to the person or persons whose goods they were; and such servant or servants, slave or slaves, soe selling or exchanging such goods and commodittyes, shall suffer and abide such punishment or censure, not extending to the taking away of life or limb, as any three Justices of the Peace or the Grand Councill shall think fitt.

A. D. 1691.

Penalty.

And it is hereby likewise enacted by the authority aforesaid, that if any servant or servants, slave or slaves, at any tyme or tymes hereafter, shall imbeazle, waste, consume or destroy, or shall buy, bargain, contract, barter or exchange any manner of goods or commodittys, belonging to his or their master or mistress or overseer, or any other person or persons whatsoever, to any servant or servants, slave or slaves in this Province, such servants soe offending in any manner as aforesaid, shall after the expiration of their terme of servitude, serve soe long tyme to his master or mistress or other person or persons whose goods they shall happen to be, as any three Justices of the Peace or the Grand Councill shall think fitt to make satisfaction for the vallue and losse of such goods and commodittys so imbeazled, destroyed, bought or sold as aforesaid.

Penalty on a servant offending.

And it is further enacted by the authority aforesaid, that if any servant or servants att any tyme hereafter, doth or shall strike or beate his, her or their master, mistress or overseer, such servant or servants soe offending, for every such offence, shall by any three Justices of the Peace or the Grand Councill, upon due prooffe thereof, be ordered to serve the terme and tyme of one whole yeare over and above their contracted tyme of servitude.

Servant striking his master, &c.

And it is alsoe enacted by the authority aforesaid, that if any servant or servants, shall at any tyme or tymes hereafter absent or withdraw him or themselves from his, her or their master or mistresses service, such servant or servants soe offending, shall for every naturall day they shall soe absent themselves, serve one whole weeke, and for every weeke, if they shall att any one tyme soe long absent themselves, one whole yeare to their master or mistresse, over and above their contracted tyme of servitude.

Servants abscenting themselves.

And bee it further enacted by the authority aforesaid, that if any master or mistresse or overseer shall under pretext of correction whipp and unreasonably abuse his, her or their servant or servants, such servant or servants complaining to the Grand Councill and makeing good his said complaint by good prooffe, of which the Grand Councill are judges, then it may and shall bee lawfull for the said Grand Councill to sett such servant or servants at their liberty, or to make such other order or orders for the relief of the servant or servants as in their wisdom shall bee thought most just.

Servants complaining of ill usage.

And bee it further enacted, that if any master or mistresse or overseer shall refuse to give and allowe his or their servant or servants good wholesome and sufficient meate, drinke and lodging and apparell, such servant or servants soe complaining and upon due prooffe being made (of which the Grand Councill are judges) it may and shall bee lawfull for the Grand Councill to sett sayd servant or servants at their liberty, or to take

Servants ill treated may be discharged.

A. D. 1691. *such other methods for the release of such servant or servants as they in their wisdom shall thinke most just.*

*Read three times and past and ratified in open Parliament
this twenty-fifth day of March, Annoque Domini 1691.*

SETH SOTHELL,
G. MUSCHAMP,
JOHN BERESFORD,
JOHN FARR,
JOHN HARRIS,
WILSON DUNSTON.

No. 61. *AN ACT TO PREVENT ALL EVILL DISPOSED PERSONS FROM TRUSTEING
ALL MARRINERS AND SEAMEN.*

Preamble. WHEREAS severall ill disposed people have formerly deluded and mislede many marriners and seamen by giving credit or trust unto them, and have caused and persuaded them to leave, neglect and forsake the shippes and vessells whereunto they did belong, contrary to the consent and knowledge of their masters and commanders and to the greates discouragement of trade and prejudice of the inhabitants of this province :

Mariners not to be trusted. *Bee it therefore enacted* by the Pallatine and the rest of the Lords and absolute proprietors of this province, by and with the consent of the Commons in this present Parliament assembled, and it is enacted by the authority of the same, That if any person or persons whatsoever after the ratification of this Act shall or may, on any pretence or pretences whatsoever, give any credit, loane or trust to any marriner or marriners or any other person whatsoever belonging to and under the command of the commander or master of any shipp or vessell that now is arrived or shall at any time hereafter arrive in this part of the province, that then and in such case he or she shall bee judged contemnners of this present authority, and for every such contempt and default shall lose all the moneys and goods soe credited and trusted, and shall forfeit over and above the moneys and goods soe credited or trusted the full and just sum of five pounds, to bee leavyed as is hereafter provided.

Penalty. *And it is enacted* by the authority aforesaid, that noe person or persons shall or may on any pretence or occasion whatsoever give any credit, loane or trust unto any person or persons that are or shall come into this part of the province in the capacity of a marriner or seaman, until he or they shall bee acquitted or discharged of and from the master or commander of the shipp or vessell in which last hee arrived, the full space and terme of six monthes, or the penalty and forfeiture as aforesaid, one moyety whereof shall bee to the publick use of this part of the province, to bee disposed of as parliament shall direct after such forfeiture and conviction, the other moyety to him or her that shall sue for the same in any court of record, wherein noe essoin, protection, injunction or wager of law shall bee allowed or admitted of.

Until six monthes after discharge.

And bee it further enacted, that if any person or persons shall entertaine or keepe or suffer to bee entertained or kept any seaman or marriner belonging to any shipp or vessell as aforesaid, in his, her or their house or

any other place whatsoever, exceeding the space and terme of twenty-foure houres, without the assent and privity or consent of his, her or their master or commander, he, she or they shall forfeit and pay the sum of five pounds, which shall bee recovered, leavyed and paid as is before in this Act provided.

A. D. 1691.

*Read and ratified in open Parliament this
twenty-fifth day of March, Annoque Dom. 1691.*

SETH SOTHELL,
G. MUSCHAMP,
JOHN BERESFORD,
JOHN FARR,
JOHN HARRIS,
WILSON DUNSTON.

AN ACT FOR REGULATING THE INDIAN TRADE.—(Not to be found.)

No. 62.

AN Additional ACT TO AN ACT ENTITLED, AN ACT FOR REGULATING
THE INDIAN TRADE.—(Not to be found.)

No. 63.

*Att a Parliament begun and held at Charlestowne at the house of Mr.
Anthony Lawson, on Thursday the nineteenth day of March, Anno Dom.
1690, Annoque Regni Regis et Reginae, 3d, and continued by adjournment
to Tuesday the one and twentieth day of Aprill, Anno Domini 1691,
Annoque Regni Regis et Reginae the 3d.*

AN ACT FOR THE ASCERTAINING THE GUAGE OF BARRELLS AND FOR
AVOIDING OF DECEITS IN SELLING AND BUYING BEEFE AND PORKE.

No. 64.

FORASMUCH as beeфе and porke are two of the principal commodities of the product of this part of this province, and greate quantities thereof are transported beyond the seas, and whereas complaint hath been made that the barrells in which the said commodities are usually packed up within this part of this province are of less number of gallons than barrells that are used for holding said commodities in other countries, and that greate frauds and deceits are practised and used in the false packing and in the barrelling up bull's flesh, boare's flesh, and other unmerchantable and corrupt meates, to the greate abuse of traders in said commodities, and to the bringing said commodities in greate disrepute abroad,

Preamble.

For remedy whereof, *Bee it enacted* by the Pallatine and the rest of the Lords and absolute Proprietors of Carolina, by and with the advice and consent of the Commons in this present Parliament assembled, and it is enacted by the authority of the same, That from and after the first day of September, in the yeare of our Lord one thousand six hundred ninety and one, noe cooper or other person whatsoever shall expose to sale any barrell or halfe barrell for the packing up beeфе or porke or for the putting up of pitch or tarr, but such barrell as shall containe eight and twenty

Barrells to
contain twenty
eight gallons.

A.D. 1691.

To be made of
seasoned wood
and marked.

gallons and such halfe barrell as shall containe fourteen gallons, wine measure, at the least; and all barrells and halfe barrells that shall bee exposed to sale to hold beefe or porke shall bee made of good seasoned wood, and the said cooper or other person before he or they doe expose to sale any barrell or halfe barrell for beefe, porke, pitch or tarr, shall set his or their proper burnt marks on such barrell or halfe barrell, which marke he or they shall first record in the Secretary's office in this part of this province, upon paine that every cooper or other person offending in making such barrell or halfe barrell of lesser number of gallons than is above said, or making or exposing to sale any such barrell or halfe barrell for packing up beefe or porke of unseasoned wood, or not putting his or their proper burnt marke upon such barrell or halfe barrell, or not recording his or their marke in the Secretary's office, shall for every such offence respectively forfeit the sume of five shillings for every such barrell and two shillings and sixpence for every such halfe barrell.

Penalty.

Penalty for
illegal meat
or barrels or
package.

And it is further enacted by the authority aforesaid, that noe planter, merchant or any other person whatsoever shall, from and after the said first day of September in the yeare of our Lord one thousand six hundred ninety and one, expose to sale any pitch or tarr put into or any beefe or porke packed up in any other barrell or halfe barrell other than such as shall bee marked by the cooper or other person making the same as aforesaid. And that noe bull's flesh, boare's flesh, or any other unmerchable or corrupt meate shall bee mixed or put up into any barrell or halfe barrell with any merchantable beefe or porke, but that the said unmerchable beefe and porke shall bee packed up apart by themselves in some other casque than a barrell or halfe barrell as aforesaid. And that noe one piece of beefe or porke packed up in any barrell or halfe barrell bee cut larger or doe containe more than sixteen pounds weight, and that the same beefe and porke bee well, truly and justly layd and packed, on paine of five shillings for every barrell of pitch, two shillings and sixpence for every barrell of tarr, fiftene shillings for every barrell of porke, and tenn shillings for every barrell of beefe he or they shall expose to sale and is not soe marked or that bull's flesh or boare's flesh or any other unmerchable or corrupt meate bee mixed or packed up into any barrell or halfe barrell, or that any one piece of beefe or porke bee cut larger or doe containe more than sixteene pounds weight, or that the said beefe or porke bee untruly, deceitfully and falsely packed, and soe proportionally for every halfe barrell of each.

Packers duty.

And for the better prevention and discovery of all frauds and abuses which shall bee committed against this Act, *Bee it further enacted* by the authority aforesaid, that Anthony Lawson and Edward Jones bee searchers, guagers and packers for this part of this province, who shall alwayes bee ready to doe and execute his and their office or offices, and the said searchers, guagers and packers shall procure irons for the burning and markeing all barrells and halfe barrells of beefe and porke, which shall have this stamp, *** which shall for ever hereafter bee taken and accounted the packers marke for this parte of this province. And the said packers shall likewise burne the two first letters of their names respectively upon the said barrell and halfe barrell. And that every searcher, guager or packer, before he or they doe execute any parte of his or their office shall take oath well and truly to search, guage, packe and marke all and every merchantable barrell or halfe barrell of beefe or porke that any person or persons whatsoever shall or doe require him or them to search, guage, packe and marke.

And bee it further enacted, that noe person or persons whatsoever shall

after the said first day of September in the yeare of our Lord one thousand six hundred ninety and one, carry or transport, or cause to bee carried or transported or put on board any vessell whatsoever, with intent to carry into any parts beyond the seas, any barrell or halfe barrell of beefe or porke, unless the packer's marke of this part of this province bee sett on the head of every such barrell or halfe barrell, upon paine to forfeit tenn shillings for every such barrell and five shillings for every such halfe barrell he or they shall soe put on board or transport as aforesaid.

A. D. 1691.

Penalty for
putting on
board any
unmarked
barrels, &c.

And bee it further enacted, that noe person or persons whatsoever shall presume to counterfeit and sett the said packer's marke upon any barrell or halfe barrell or other casque whatsoever upon paine of the forfeiture of five pounds for every such offence.

Counterfeiting
the mark.

And it is further enacted by the authority aforesaid, that noe packer shall or doe sett the packer's mark of this part of this province upon any barrell or halfe barrell of beefe or porke that hath not on the said barrell or halfe barrell the cooper's marke as aforesaid, nor any barrell or halfe barrell packed with bull's beefe, boare's flesh, or any other unmerchantable or corrupt meat or that hath any of the same mixed among merchantable meate, nor any one barrell that is untruely, deceitfully or falsely packed, on paine of twenty shillings for every barrel and tenn shillings for every halfe barrell, for every such offence.

No packer to
mark any cask
not searched

And that noe searcher or packer shall demand unreasonable fees for the due execution of his said office, *Bee it further enacted*, that every such searcher or packer take noe more for searching, guaging, packing and markeing of a barrell or halfe barrell of beefe or porke than six pence for every bartell he or they shall search, guage, packe, marke and again head up.

Packer's fees.

And bee it further enacted by the authority aforesaid, that all and every the offences against this Act that shall or doe not rise to above the sume of forty shillings, are to bee inquired of, sued for, heard and determined before any of their Majesties Justices of the Peace of this part of this province, in like manner as small and meane causes are by vertue of an Act of Parliament intituled An Act for the Tryall of Small and Meane Causes, made at a Parliament begun at Charlestowne the sixteenth day of December in the yeare one thousand six hundred and ninety; and that all offences against this Act which shall arise to above forty shillings, to bee sued for, heard and determined in the Court of Pleas in this part of this province, by action of debt or information, wherein noe assoin, protection or wager of law shall bee allowed to the defendant. And the one moyety of all forfeitures by vertue of this Act shall bee to the use of this part of this province received by the Receiver and to bee disposed of as the Parliament for the time being shall thinke fitt, and the other halfe to him or them that shall sue for the same besides his costs thereby expended.

Penalties how
to be recovered.

Provided that every suite and information which shall bee brought upon this Act shall bee prosecuted in five monthes after any offence or offences therein mentioned is committed, and that this Act nor any thing herein contained continue to bee in force longer than one and twenty monthes after the ratification thereof.

Limitation.

*Read three tymes, past and ratified in open Parliament, this
first day of May, Anno Dom. 1691.*

SETH SOTHELL,
G. MUSCHAMP,
JN. BERESFORD,
WILSON DUNSTON.

A. D. 1691.

No. 65.

**AN ACT FOR THE BETTER ENCOURAGEMENT OF THE SETTLEMENT OF
THAT PART OF THIS PROVINCE THAT LYES SOUTH AND WEST OF
CAPE FEARE.**

Preamble.

WHEREAS greate number of French Protestants were of late yeares forced to flye out of France into severall parts of the Christian world, by reason of a severe persecution in that Kingdome uppon their persons for their religion sake, thousands of whom coming on shoare in the Kingdome of England and elsewhere in the dominions of our Soverigne Lord and Lady the King and Queene, were kindly and charitably received and relieved, and alsoe for their better security and subsistence had many gracious priviledges and immunities granted unto them by their said Majesties and their royal predecessors: And whereas the right honourable the Lords and absolute Proprietors of this Province have been pleased out of their singular piety to send and encourage severall of the French Protestants to come into this part of this province, and by their speciall orders to their Governour and deputies here to make them, the said French Protestants, magistrates in the civill and millitary part of this government: And whereas the said Lords Proprietors have alsoe out of their owne greate bounty been pleased freely to give and grant unto many of the said French Protestants and other forreigners severall lands to be held to them and their heirs and assigns for ever, and have given and granted to others of the said French Protestants and other forreigners respectively severall lands to be held in free and common soccage to them, their heirs and assigns for ever (they paying one penny per acre per annum for the same), and have alsoe for a valluable consideration bargained and sold severall tracts and parcellls of land to severall others of the said French Protestants and other forreigners to be held of freehold to them, their heirs and assigns for ever; all which said lands given, granted and sold as aforementioned, are situate and being within this part of this province, and are settled and inhabited by the said French Protestants and other forreigners respectively; and whereas severall of the said French Protestants being sent hither and encouraged as afore related have become inhabitants of this part of this province and have and doe still trade in the same as English merchants doe or ought to doe, and that others of them the said French Protestants doe for their daily subsistence and livelyhood follow and employ themselves in severall other lawful trades and occupations: And whereas King Charles the Second of blessed memory (one of the royal predecessors to the present King and Queene) was graciously pleased in the yeare one thousand six hundred and eighty, for the encouragement of a manufacture of silk, oyle and wine, to send in one of his owne shippes of warr severall French Protestants into this country, to inhabit and dwell in the same, and their posterity after them: And whereas several persons born in Switzerland have of late yeares transported themselves into this part of this province, and have upon the same encouragement as the said French Protestants received from the Lords Proprietors of this province as afore-said, settled in the same: And forasmuch as all the aforementioned French Protestants and persons born in Switzerland have behaved themselves faithfully and dutifully towards their Majesties and their laws, and faithfully and submissively towards the Lords and absolute proprietors of this province, in that part of it that lyes south and west of Cape Feare, ever since their respective arrivals into the same:

THEREFORE, for the honour of the King and Queene, for the sake of

the Protestant religion, for the advancement of the just interests of the Lords Proprietors, and for the preservation of Justice and Equity,

A. D. 1691.

Be it enacted by the Pallatine and the rest of the Lords and absolute Proprietors of this Province by and with the assent and approbation of the Commons in this present Parliament assembled, and it is enacted by the authority of the same, That all and every French Protestant or person borne in Switzerland, of what age soever he may be, at present an inhabitant of that part of this province that lyes south and west of Cape Feare, or that heretofore hath been an inhabitant in the same and is now absent and shall return into the said part of this province before the first day of May which shall be in the yeare one thousand six hundred ninety and two, be from thenceforth adjudged and taken to all intents and purposes as free borne of that part of this province that lyes south and west of Cape Feare, since the yeare one thousand six hundred and seaventy; and they are and shall be from henceforth adjudged, reputed and taken to be in every condition, respect and degree, as free to all intents and purposes and constructions, as if they and every of them had been and were borne within that part of this province that lyes south and west of Cape Feare, since the yeare one thousand six hundred and seaventy; and shall and may from henceforth in this said part of this province be enabled and adjudged able to all intents and constructions to demand, challenge, ask, hold, have and enjoy, and buy, sell and exchange lands, tenements and hereditaments and rents, as heire or heires to any of their ancestours, by reason of any descents, remaine, revert, or come to them by any other lawful conveyances or meanes whatsoever, or which hereafter shall come to them the said French Protestants or persons borne in Switzerland, or any of them, as if they and every of them had since the yeare of our Lord one thousand six hundred and seaventy been borne within that part of this province that lyes south and west of Cape Feare: And to hold and enjoy to them and every of them, joyntly and severally, lands, tenements, hereditaments or rents, by way of purchase, gift, grant or otherwise, of any person or persons, to all constructions and purposes, as though they and every of them since the yeare of our Lord one thousand six hundred and seaventy had been borne within that part of this province that lyes south and west of Cape Feare: And alsoe that they and every of them from henceforth may and shall be enabled to prosecute, maintaine and avow, justify and defend all manner of actions, suits and complaints and other demands whatsoever, as liberally, frankly, fully, lawfully, surely and freely as if they and each of them had since the yeare of our Lord one thousand six hundred and seaventy been actually borne within that part of this province that lyes south and west of Cape Feare, and as any other person naturally borne within the same may doe.

French
Protestants
and Swiss
constituted
free born
subjects.

And whereas severall French Protestants and persons borne in Switzerland that have transported themselves to this part of this their Majesties Province have taken up severall parcells of lands and have possessed and held the same by gift, purchase or otherwise as abovementioned from the right honourable the Lords and absolute Proprietors of this province, and afterwards some have been sold or released to other persons, *It is therefore hereby further enacted* and ordained by the authority aforesaid, that all such person or persons that have bought or purchased or doe hold by vertue of any deed or devise of any French Protestant or person borne in Switzerland, any lands, houses or tenements, be as well secured and by vertue of this Act be for ever confirmed in the quiet and peaceable possession of such purchases and devises, as if they had been sold or devised by any of their Majesties naturall borne subjects, and shall be good to

A.D. 1691.

their heirs and assigns for ever; any former law, custom or usage to the contrary in any wise notwithstanding.

Absentees.

Provided nevertheless, *and it is hereby enacted* by the authority aforesaid, that noe French Protestant or person borne in Switzerland, inhabitant of this part of this province as above mentioned, shall have, take or receive any benefit in any sense whatsoever by this present Act, that doth not within six months after the ratification hereof in his owne person appeare before the Clerke of the Parliament, or if noe such Clerke then to the Secretary for the time being, and enter his or her name in a booke which the said Clerke of the Parliament or Secretary is hereby required to keepe for that purpose. And that noe French Protestant or person borne in Switzerland that heretofore hath been an inhabitant in this part of this province and is now absent and shall returne into the same before the first day of May which shall be in the yeare of our Lord one thousand six hundred ninety and two, shall have or take any benefit of this present Act that shall not within two months after such his returne into this part of this province appeare before the said Clerke or Secretary and enter his or her name in the booke provided as above required. And that the name of any French Protestant or person borne in Switzerland under the age of twenty one yeares, or that is a servant, shall and may be entered in the said booke by the parent or parents or the neare relations or other friends, or masters, mistresses or overseers of the said person under age or servant as aforesaid. And the Clerke or Secretary who shall make entry of any French Protestant's name or of the name of any person borne in Switzerland, in a booke, according to the true intent and meaning of this present Act, shall and may lawfully demand seaven pence halfepenny and noe more, of every person who shall appeare before him and desire entry of his, her or their name, or of any other person, to be made as by this present Act is directed.

Fee for entry.

Copy to be kept
of the book of
entry.which is made
evidence.

And it is hereby further enacted by the authority aforesaid, that the Clerke of the Parliament or Secretary as aforesaid, under the penalty of twenty pounds sterling, to be leavyed by distress and sayle of his goods and chattells by a warrant under the hand and seale of the Governor for the time being, shall within seaven monthes after the ratification of this Act deliver one faire copy of the said booke of entries made according to the intent and meaning hereof to the Secretary of the Grand Councill. And the booke of entryes and copy thereof as aforesaid and every part of them kept as above directed by the Clerke of the Parliament and the Secretary of the Grand Councill, shall be pleaded as sufficient matter of record and evidence in all and every the courts of justice in that part of this province that lyes south and west of Cape Feare.

*Read three tymes, past and ratified in open Parliament, this
first day of May, Anno Dom. 1691.*

SETH SOTHELL,
G. MUSCHAMP,
JOHN BERESFORD,
WILSON DUNSTON.

A. D. 1691.

AN ACT FOR THE BETTER SECURING THE PAYMENT OF DEBTS DUE FROM ANY PERSON INHABITING AND RESIDEING BEYOND SEA OR ELSEWHERE WITHOUT THE LIMITTS OF THIS PART OF THE PROVINCE.

No. 66.

WHEREAS, severall persons inhabiting or commonly residing beyond sea, or in other countreyes and places without the limitts of this part of this Province of Carolina, have and still doe continue by their attorneyes, agents, mannagers, overseers or factors, to make plantations and carry on a trade and commerce in this their Majesties Collony, and doe often become indebted in considerable summes of money to the inhabitants of the same, which summes of money are often denied to be paid to the inhabitants by their said debtors, or their attorneyes, agents, mannagers, overseers or factors aforementioned, pretending they have power only to manage plantations, sell goods or merchandizes, and sue for debts, but not to pay any, or to put in any pleas or answers in any court of justice, to any declaration or bill of complaint filed against their attoruors or employers resideing without the limits of this part of this Province, whereby the freeholders, merchants and others the inhabitants of this Province, are frequently defrauded of debts justly due unto them, to their greate damage, and sometimes to their ruine, For prevention of the same for the future, *Be it enacted* by the Pallatine and the rest of the Lords and absolute Proprietors of this Province, and by and with the advise and consent of the Commons, in this present Parliament assembled, and it is enacted by the authority of the same, That any person having any summe or summes of money, goods, wares or merchandizes due unto him from any person or persons residing without the limitts of this part of the Province, upon any contract, assumpsit or worke done within this part of the Province, shall and may at his pleasure, sue out an attachment against the goods and chattells of such person soe indebted unto him out of the Court of Pleas, or any other court proper to heare and determine such a cause, (and the chief judge of the Court of Pleas or of any other court as aforesaid, are hereby authorized and required, under their hands and seales, to grant out such writs of attachment) and the goods and chattells soe attached, unless valuable security for the debt and legal charges shall be by any person given, which the officer shall not refuse, shall remaine in possession of the officer who attached them, untill by due course of law they are from thence taken, which shall be by such methods and in such manrer as followeth, that is to say, the person who hath sued out the attachment as aforesaid, shall within such tyme and after such manner, file a declaration against the person whose goods he hath attached, as if the body of the person had been arrested, and shall cause a copy of the said declaration to be delivered or proffered unto the attorney, if any, and for want of such, to the agent, mannager, overseer, or factor of the person whose goods are attached, if any such are publickly knowne to reside within this part of this Province. And if such attorney, agent, mannager, overseer or factor, cannot be found, or being found shall deny to appeare for the person whose goods are attached, or plead to the declaration aforesaid, then the plaintiff the next sitting of the court out of which the aforementioned attachment was sued, shall, having first well proved his debt by good and sufficient evidence, to the satisfaction of the Judges of the Court, and the said evidence being first fairly recorded, in manner as delivered, have judgement against the person whose goods were attached, and a writ of execution granted for the delivery to him of soe much of the

Preamble.

Writs of attachment to issue against foreign debtors.

Proceedings on attachment.

A.D., 1691.

their heirs and assigns for ever; any former law, custom or usage to the contrary in any wise notwithstanding.

Absentees.

Provided nevertheless, *and it is hereby enacted* by the authority aforesaid, that noe French Protestant or person borne in Switzerland, inhabitant of this part of this province as above mentioned, shall have, take or receive any benefit in any sense whatsoever by this present Act, that doth not within six months after the ratification hereof in his owne person appeare before the Clerke of the Parliament, or if noe such Clerke then to the Secretary for the time being, and enter his or her name in a booke which the said Clerke of the Parliament or Secretary is hereby required to keepe for that purpose. And that noe French Protestant or person borne in Switzerland that heretofore hath been an inhabitant in this part of this province and is now absent and shall returne into the same before the first day of May which shall be in the yeare of our Lord one thousand six hundred ninety and two, shall have or take any benefit of this present Act that shall not within two months after such his returne into this part of this province appeare before the said Clerke or Secretary and enter his or her name in the booke provided as above required. And that the name of any French Protestant or person borne in Switzerland under the age of twenty one yeares, or that is a servant, shall and may be entered in the said booke by the parent or parents or the neare relations or other friends, or masters, mistresses or overseers of the said person under age or servant as aforesaid. And the Clerke or Secretary who shall make entry of any French Protestant's name or of the name of any person borne in Switzerland, in a booke, according to the true intent and meaning of this present Act, shall and may lawfully demand seaven pence halfe penny and noe more, of every person who shall appeare before him and desire entry of his, her or their name, or of any other person, to be made as by this present Act is directed.

Fee for entry.

Copy to be kept
of the book of
entry.which is made
evidence.

And it is hereby further enacted by the authority aforesaid, that the Clerke of the Parliament or Secretary as aforesaid, under the penalty of twenty pounds sterling, to be leavyed by distress and sayle of his goods and chattells by a warrant under the hand and seale of the Governor for the time being, shall within seaven monthes after the ratification of this Act deliver one faire copy of the said booke of entries made according to the intent and meaning hereof to the Secretary of the Grand Councill. And the booke of entryes and copy thereof as aforesaid and every part of them kept as above directed by the Clerke of the Parliament and the Secretary of the Grand Councill, shall be pleaded as sufficient matter of record and evidence in all and every the courts of justice in that part of this province that lyes south and west of Cape Feare.

*Read three tymes, past and ratified in open Parliament, this
first day of May, Anno Dom. 1691.*

SETH SOTHELL,
G. MUSCHAMP,
JOHN BERESFORD,
WILSON DUNSTON.

A. D. 1691.

No. 66.

AN ACT FOR THE BETTER SECURING THE PAYMENT OF DEBTS DUE FROM ANY PERSON INHABITING AND RESIDEING BEYOND SEA OR ELSEWHERE WITHOUT THE LIMITTS OF THIS PART OF THE PROVINCE.

WHEREAS, severall persons inhabiting or commonly residing beyond sea, or in other countreyes and places without the limitts of this part of this Province of Carolina, have and still doe continue by their attorneyes, agents, mannagers, overseers or factors, to make plantations and carry on a trade and commerce in this their Majesties Collony, and doe often become indebted in considerable summes of money to the inhabitants of the same, which summes of money are often denied to be paid to the inhabitants by their said debtors, or their attorneyes, agents, mannagers, overseers or factors aforementioned, pretending they have power only to manage plantations, sell goods or merchandizes, and sue for debts, but not to pay any, or to put in any pleas or answers in any court of justice, to any declaration or bill of complaint filed against their attornors or employers resideing without the limits of this part of this Province, whereby the freeholders, merchants and others the inhabitants of this Province, are frequently defrauded of debts justly due unto them, to their greate damage, and sometimes to their ruine, For prevention of the same for the future, *Be it enacted* by the Pallatine and the rest of the Lords and absolute Proprietors of this Province, and by and with the advise and consent of the Commons, in this present Parliament assembled, and it is enacted by the authority of the same, That any person having any summe or summes of money, goods, wares or merchandizes due unto him from any person or persons residing without the limitts of this part of the Province, upon any contract, assumpsit or worke done within this part of the Province, shall and may at his pleasure, sue out an attachment against the goods and chattells of such person soe indebted unto him out of the Court of Pleas, or any other court proper to heare and determine such a cause, (and the chief judge of the Court of Pleas or of any other court as aforesaid, are hereby authorized and required, under their hands and seales, to grant out such writs of attachment) and the goods and chattells soe attached, unless valuable security for the debt and legal charges shall be by any person given, which the officer shall not refuse, shall remaine in possession of the officer who attached them, untill by due course of law they are from thence taken, which shall be by such methods and in such manrer as followeth, that is to say, the person who hath sued out the attachment as aforesaid, shall within such tyme and after such manner, file a declaration against the person whose goods he hath attached, as if the body of the person had been arrested, and shall cause a copy of the said declaration to be delivered or proffered unto the attorney, if any, and for want of such, to the agent, mannager, overseer, or factor of the person whose goods are attached, if any such are publicly knowne to reside within this part of this Province. And if such attorney, agent, mannager, overseer or factor, cannot be found, or being found shall deny to appeare for the person whose goods are attached, or plead to the declaration aforesaid, then the plaintiff the next sitting of the court out of which the aforementioned attachment was sued, shall, having first well proved his debt by good and sufficient evidence, to the satisfaction of the Judges of the Court, and the said evidence being first fairely recorded, in manner as delivered, have judgement against the person whose goods were attached, and a writ of execution granted for the delivery to him of soe much of the

Preamble.

Writs of attachment to issue against foreign debtors.

Proceedings on attachment.

A. D. 1691.

Plaintiff
attaching
to give an
indemnifying
bond.

Execution to
go for the sum
limited in the
condition of
the bond.

Interest of
money ten
per cent.

said goods attached as aforesaid, as shall amount to the debt proved in Court as aforesaid, and all the legal charges accruing thereupon. But if the goods attached as aforesaid, shall not amount to the value of the debt aforesaid, then the residue of the debt recovered to be levied by execution on the goods and chattels of the party defendant, if any such can be found in this Collony. *And be it further enacted* by the authority aforesaid, that all persons which shall by virtue of such attachments obtain judgement against any person not in or inhabiting within this part of this Province, sometime before the Judge of that respective Court shall issue out execution against any person not in or inhabitant as aforesaid, and for whom noe attorney did appeare, give sufficient security by bond in the Governor's name, to answer and pay all such summe or summes of money, as shall by due course of law be recovered against him at the suite of the person against whom such judgement was obtained, provided the same shall be sued for within the space of two yeares after the said bond given. And the Governor for the time being is hereby humbly required to give a power of attorney in such case to sue the said bond according to the intent of this Act. *And be it further enacted*, that noe Judge of any Court whatsoever shall give execution for more than the summe justly due, limited in the condition of any bond due from any person not in or inhabiting this Collony, and which is sued before him, and for whom noe attorney or any other person doth appeare, with the costs of suite and interest according to law.

And for the better encouragement of the importation of money into this Province, and when imported, for encouragement to keepe it here, and the advance of trade, *Be it further enacted* by the authority aforesaid, that it shall and may be lawfull for any person or persons to take any summe or summes of money, for the use or loane of one hundred pounds for a yeare, not exceeding tenn pounds, and soe proportionably for a greater or a lesser summe or a longer or shorter time, the statute of usury, or any other statute, law, usage or custom to the contrary notwithstanding.

*Read three tymes, past and ratified in open Parliament
this first day of May, Anno Dom. 1691.*

SETH SOTHELL,
G. MUSCHAMP,
JOHN BERESFORD,
WILSON DUNSTON.

No. 67.

AN ACT FOR THE ENTRYES OF VESSELS.

(The original manuscript of this Act is too much defaced by time to be legible.)

No. 68.

AN ACT FOR RAISING A TAX.

(A great part of the original manuscript of this Act also is wanting, and a part of the rest of it is torn.)

No. 69.

AN ACT FOR DESTROYING OF WILD AND UNMARKED CATTLE.

(So much torn and defaced as to be illegible.)

A. D 1691.

**AN ACT FOR THE MAKEING AND MENDING HIGHWAYES AND FOR CUTTING
OF CREEKS AND WATER COURSES.**

No. 70.

(The two first pages of this Act are too much mutilated to be copied with reasonable accuracy. The continuance of the Act was limited by the last clause to eighteen months.)

**AN Additional ACT TO AN ACT ENTITULED AN ACT FOR THE BETTER
SETTLEMENT AND REGULATING OF THE MILITIA. (See last volume.)**

No. 71.

**AN ACT FOR THE ENCOURAGEMENT OF THE MAKING OF ENGINES FOR
PROPAGATEING THE STAPLES OF THIS COLLONY.**

No. 72.

WHEREAS, Mr. Peter Jacob Guerard, hath at his proper cost and expence of time, lately invented and brought to perfection, a Pendulum Engine, which doth much better, and in lesse time and labour, huske rice, than any other heretofore hath been used within this Province, That he, the said Peter Jacob Guerard, and all other ingenious and industrious persons may be encouraged to essay such other machines as may conduce to the better propagation of any commodities of the produce of this Collony,

Preamble.

Be it enacted by the Pallatine and the rest of the Lords and absolute Proprietors of this Province, by and with the advise and consent of the Commons, in this present Parliament assembled, and it is enacted by the authority of the same, that noe person whatsoever, but the said Peter Jacob Guerard, or such others as by him shall be thereunto under his hand and seale lycensed, shall at any time during the space of two years after the ratification of this Act, make, sett up or use the said Pendulum Engine, unlesse he or they shall first pay unto the said Peter Jacob Guerard forty shillings current money of this Province, for every such Engine he or they shall make, sett up or use as aforesaid. It is hereby made lawful for the said Peter Jacob Guerard, to bring his action at law against the said person or persons, and recover the same as in plaine actions of debt, in any of the courts of this Province is used and accustomed.

*Read three tymes, past and ratifyed in open Parliament the
six and twentieth day of September, 1691.*

SETH SOTHELL,
G. MUSCHAMP,
JOHN BERESFORD,
W. DUNSTON,
JOHN FARR.

A. D. 1691.

No. 73. AN ACT FOR LAYING A TAX OR DUTY ON SKINS OR FURRS, FOR THE
PUBLICK USE OF THIS PROVINCE, AND REGULATING THE INDIAN TRADE.

Preamble.

WHEREAS, in the former several invasions of this Collony, the want of a publick treasure hath occasioned such delays in the preparations, and in providing and setting forth such necessary provisions, men, arms, boats and ammunition, as might easily (by God's blessing,) have repelled and utterly defeated the enemy, which for want thereof, have inflicted and done great depredations on the persons of their Majesties subjects and estates in this Collony; And whereas, the severall persons which imploy themselves in trading with the Indians, by reason of the distance the most convenient place for that tradeing lyes from the settled part of this Collony, cannot possibly upon the like occasion, if any such happens, (which God forbid) personally give their assistance in defence of this Collony,

Duties on Skins
and Furrs.

Be it therefore enacted by the Pallatine and the rest of the Lords and absolute Proprietors of this Province, by and with the advise and consent of the Commons, in this present Parliament assembled, and it is enacted by the authority of the same, That a tax or duty be laid and leavyed on all Skins and Furrs exported from any part of this Province, from and after the ratification of this present Act, according to such rates and in such manner and forme as hereinafter followeth, that is to say, for every Deer Skin not stamped or tanned, three pence, for every pound averdupois of Beaver, seavenpence halfe penny, for every Otter Skin, three pence, for every Fox or Catt Skin, one penny, for every Boare Skin, sixpence, and for every Racoon Skin, one halfe-penny, and soe proportionably for a greater or lesser quantity, to be disposed of as hereafter is provided. And for the better collecting of the Duties hereby imposed upon all Skins and Furrs aforesaid,

Penalty for
shipping before
duty paid.

Be it further enacted by the authority aforesaid, that if any Skins or Furrs whereof the duties aforesaid are or shall be due, shall at any tyme after the ratification of this Act be shipped or putt into any boate or vessel, to the intent to be carryed into the parts beyond the seas, or any where without the limits of this Government, the duties due or to be due for the same, not being paid to the Receiver or his Deputy according to the true intent and meaning of this Act, that then all such Skins and Furrs so shipped, shall be forfeited for the uses in this Act appointed. And for the preventing of frauds and abuses in the said duties, *Be it further enacted* by the authority aforesaid, that noe Captaine, Master or any other person takeing charge of any ship or vessell, shall take in or suffer to be taken into or laden aborde any such ship or vessell, any Skins or Furrs (except such Skins upon which noe duty is imposed by this Act) untill such Captaine, Master or other person have first received a permitt or warrant for soe doing, under the hand of the receiver or his deputy, that the duties on all such Skins and Furrs are duly satisfied and paid. And before he or they shall depart with his or their ship or vessell out of such port or place, where he shall lade any such Skins or Furrs, he or they shall bring and deliver unto the said receiver or his deputy a consent in writing under his or their handes, of the names of every merchant or other person or persons, who shall have laden and put on board any such ship or vessell any such Skins and Furrs, together with the markes and numbers and outward bulke of said Skins and Furrs, and shall likewise upon his corporal oath, answere such question or questions

Captain or
Master to
answer upon
oath.

A. D. 1691.

as shall be demanded of him by the Receiver (who is hereby authorized and empowered to administer such oath) concerning such Skins and Furrs as shall be aboarde such ship or vessell, upon paine to forfeit for every such default one hundred pounds.

And be it further enacted by the authority aforesaid, that the Secretary ^{Regulations of entry and shipment.} for the tyme being, shall and doe insert in the ships bond, these words, viz. and doe not putt into the said ship or vessell, any Skins or Furrs whereof the duties are or shall be due, untill the said duties be truly satisfied and payd. And alsoe that the said Secretary doe not deliver, or cause to be delivered, unto any Captaine or other person takeing charge of any ship or vessell, his dispatch or dispatches, until such person or persons shall first produce to him a permitt under the Receiver or his Deputy's hand, that he hath cleared with him in manner aforesaid, on paine to forfeit for every such default one hundred pounds. And for the more due and orderly entry and payment of the duty or duties layd upon Skins and Furrs aforesaid,

Be it enacted by the authority aforesaid, that all merchants and other ^{Continued.} persons whatsoever, before he or they have liberty to lade any Skins or Furrs aboarde any ship or vessell whatsoever, shall first bring or deliver unto the Secretary of this part of this Province for the time being, a content in writing under his or their hands, of all the Skins and Furrs he intends to transport, together with the name of the Master or Commander of the said ship or vessel he intends to put them aboarde, and the outward bulke, quality, quantity, markes and numbers of the parcels. And that likewise upon his corporall oath to the best of his knowledge, answer such question or questions as shall be demanded of him by the said Secretary or Deputy, concerning the quantity and quality of each parcel, he or they shall so have entered. And the said Secretary or his Deputy, receiving such entry as aforesaid, shall engrosse the same in a faire booke, to be kept for that purpose, and give the said merchant or other person, a true copy of the said entry, together with a certificate that the same has been entered with him, for which he shall receive two shillings and sixpence fee and noe more. And the said merchant or other person carrying the said certificate to the receiver hereafter named or his deputy, and paying to either of them the dues and duties by this Act imposed on the Skins and Furrs therein named, shall receive from the said Receiver or his Deputy, a warrant or permitt to transport the same.

And be it further enacted by the authority aforesaid, that Mr. Jonathan Amory be Receiver of all duties, dues, penalties and forfeitures ariseing or growing due or payable by this Act. And the said Receiver or his Deputy or Deputys, are hereby authorized and enabled to goe and enter ^{Receiver may search any vessel.} aboarde any boate, ship or vessell, and make search in all places and parts therein, and if need be, to open lockes and chests, and there seize and from thence bring on shoare, all Skins and Furrs whereof the duties aforesaid are not yet payd to the said Receiver or his Deputy, and to doe all other matters and things which may tend to secure the due payment of the duties by this Act imposed. And if any person or persons whatsoever shall forcibly resist, or encourage, abet or advise, any person or persons, to resist the said Receiver or his Deputy or Deputyes, in the due execution of this Act, that then every such person, for every such offence, shall forfeit and pay the summe of one hundred pounds.

And be it further enacted by the authority aforesaid, that the said Receiver or his Deputy or Deputyes, before he or they execute any part of his or their offices, shall and do first take his or their corporall oath before the Governor for the time being, to execute his or

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Receivers
compensation.Limits of
travelling.Indians not
to be supplied
with arms.Nor with
spirituous
liquors.Accomplices
informing.Four months
allowed to quit
the Indian
country.

their places duely and honestly; and the said Receiver for his care, paines and trouble, shall take and receive to himselfe out of all such summe or summes of money, he shall or doe collect and receive by vertue of this Act, tenn pounds for every hundred pounds he shall receive and pay, and soe proportionably for every lesser quantity.

And be it further enacted by the authority aforesaid, that noe person or persons whatsoever shall at any time whatsoever after the ratification of this Act goe to trade with any Indians whatsoever, or upon any other pretence or occasion whatsoever, goe to the southward of the Westoe river, or upon the sea coaste, uor to the southward or westward of the now Savana townes upon the same river inland, nor further northward than the north side of Wanyaw river upon the sea coaste, nor to the northward or westward of the Congaree Indians houses inland. And if any person or persons whatsoever shall after the ratification of this Act goe beyond or without the limitts by this Act sett downe and appointed, he or they shall forfeit fifty pounds current money for every time he or they shall be seene beyond or without the same. And alsoe all the goods, merchandizes or chattells which to them belong, or by any means or way are under his or theire trust, charge or management without the limitts aforesaid.

And it is further enacted by the authority aforesaid, that all persons whatsoever which now have any Smiths tooles in the Savana townes, or amongst the Yamassee, or in any other place whatsoever without Colleton, Berkeley or Craven Counties, shall bring the same within two months after the ratification of this Act, within the limitts or bounds of the same Counties, under penalty of the forfeiture of fifty pounds current money. And if any person or persons whatsoever, shall at any time after two months from the ratification of this Act, carry any Smiths tooles to, or mend any guns or fire arms for Indians or any other person or persons whatsoever, at the Savana towne or amongst the Yemassee Indians or any other place without the bounds of the Counties aforesaid, he or they shall forfeit fifty pounds for every time he or they shall be convicted thereof.

And be it further enacted by the authority aforesaid, that noe person or persons whatsoever, shall carry to the Savana townes or to any other parte or nation of Indians without or beyond any of the limitts aforesaid, any rum, brandy or spiritts whatsoever, to sell or for any other use whatsoever, shall undergoe the paines of twelve months imprisonment without bayle or mainprize, being convicted thereof before two or more Justices of the Peace.

And be it further enacted by the authority aforesaid, that if any two, three or more persons, shall, contrary to the purport of this Act, goe without or beyond the limitts by this Act set downe, he of the said persons that shall first make information thereof in any Court within this Province, shall have one third part of the penalties and forfeitures that shall be recovered from the person or persons informed against. And further shall not be deemed or taken in law to have done any thing contrary to the true intent and meaning of this Act.

And whereas several persons have quantites of goods beyond the limitts before by this Act bounded, it shall and may be lawful for the said persons to send for or goe to bring home the said goods, provided they goe and returne at such times as by this Act is appointed. That is to say, all persons that have any goods among the Cussetas and Kaweeta Indians, or any where nearer without the limitts aforesaid, shall bring within the said limitts theire said goods, within foure monthes after the ratification of this Act, and all goods * * * * * amongst the

A. D. 1691.

Cusseta or Kaweeta Indians, or any where nearer within the limits aforesaid, which shall not be brought within the said limitts, shall be forfeited and lyable to be seized even within the limitts. And every person or persons which now are at or hereafter shall be sent to the place last before mentioned and shall not returne within foure monthes as aforesaid, shall undergo the paines of twelve months imprisonment without bayle or mainprize, being convicted thereof before two or more Justices of the Peace, and by them to be committed to prison accordingly, and the penalty of fifty pounds current money.

And be it further enacted by the authority aforesaid, that all persons which have any goods among the Attoho, Kolegey or Cheraque Indians, shall some time in March next, and not before, goe or send for their goods, and shall returne some time in September next. And all goods which shall be amongst the said Indians or any where without and neare the limitts for trading by this Act appointed, after the last day of September next, shall be forfeited and lyable to be seized even within the limitts of trade as aforesaid. And every person which now is at or hereafter shall goe or be sent to the places last before mentioned and shall not returne within the limitts of trade as aforesaid, before the last day of September next aforesaid, shall undergoe the paines of imprisonment for twelve months, without bayle or mainprize, being convict thereof before two or more Justices of the Peace, and by them to be committed to prison accordingly; and the penalty of fifty pounds current money.

And be it further enacted by the authority aforesaid, that it shall and may be lawful for every person that shall goe or send for any goods without the limitts of trade by this Act appointed, to carry with them such and such quantities of goods as the right honourable Seth Sothell, Governor, shall permit for their necessary expence in buying, victualling, hirling guides and rewardeing friendley Indians; anything in this Act contained to the contrary notwithstanding.

And it is enacted by the authority aforesaid, that the right honourable Seth Sothell, Governor, shall as often as he shall thinke fitt, by commission under his hand and seale to that end made, send such persons as he shall like to any place without the limitts of trade to seize and bring within the limitts all persons and goods that shall be without the limitts of trade, contrary to the purport of this Act; any thing in this Act contained to the contrary notwithstanding.

And for the better securing such persons as shall goe or send to the Attoho, Kolegey, or Cheraque Indians, *Be it therefore enacted* by the authority aforesaid, that all persons that shall goe or send to the said Indians, shall goe in one company and at the same time, of which time the major part of those that doe goe shall be judges; provided it be according to the meaning of this Act.

And be it further enacted, by the authority aforesaid, that two third parts of all the dues and duties imposed upon the skins and furs aforesaid, and one third part of all the penalties and forfeitures in this Act mentioned, shall be to the publick use of this part of this province, to be disposed of as the Parliament shall thinke fitt: And for the abundant care and industry of the right hon. Seth Sothell, Governor, for the well being and preservation of this government, with the consideration of the great charge and expences for the support of the same, doe give and grant the other third part of all the said dues and duties and one third part of all the penalties and forfeitures in this Act imposed and mentioned, to the said Seth Sothell, for and during the full terme and space of two years after the ratification of this Act;

A. D. 1691.

and the other third part of all penalties and forfeitures to him that will seize, informe and sue for the same. And the Receiver aforesaid is hereby authorized and impowered to pay all such summe or summes of money that he shall collect and receive by vertue of this Act, as in the said Act is directed and appointed, takeing thereout unto himselfe the allowance aforesaid; and the same shall be allowed him upon his account accordingly; and the Receiver shall render his account to the Parliament or any by them appointed, at such time and times and as often as they shall thinke fitt.

Any person
may sue as
informer.

And be it further enacted by the authority aforesaid, that it shall and may be lawful for any person or persons to seize any goods for any offence committed against this Act, and to bring or commence any action, suit or information against any person, for the recovery of the penalties and forfeitures granted by this Act: And that all the penalties and forfeitures and every summe or summes of money for any offence or offences hereinbefore mentioned, shall be sued for by action of debt, bill, plaint, or information, to be brought for the same in the Court of Pleas or any other court of this province, wherein noe wager of law, protection or assoign shall be allowed. And if any skinns or furrs or other goods seized for any offence committed against this Act shall be claimed by any person whatsoever, or any action, suit or information shall be brought for or upon the said goods so seized, the *onus probandi* shall lye upon the claimer or defendant and shall not be incumbent on any prosecutor or informer.

Onus probandi
to lye on the
defendant.

And be it further enacted by the authority aforesaid, that an Act entituled an Act for the regulation of Indian Trade, ratified in open Parliament the twenty-ninth day of Aprill, one thousand six hundred ninety and one; and one other Act entituled An additional Act to an Act entituled an Act for the regulation of the Indian Trade, ratified in open Parliament the first day of May, one thousand six hundred ninety and one; and every thing, clause, part and word of the said Acts and either of them be repealed, made void and null, as if they or either of them had never been enacted,
* * * *

*Read three times, past and ratified in open Parliament,
this six and twentieth day of September, 1691.*

SETH SOTHELL,
G. MUSCHAMP,
JOHN BERESFORD,
W. DUNSTON,
JOHN FARR.

No. 74. *At a Parliament held at Charlestowne, at the house of Mr. Anthony Lawson, the eighth day of December, 1691, Annoque Regni Regis et Reginae *** tertio.*

**AN ACT FOR THE BETTER OBSERVANCE OF THE LORD'S DAY,
COMMONLY CALLED SUNDAY.**

Preamble.

FORASMUCH as there is nothing more acceptable to Almighty God than the true sincere performance of and obedience to the most divine service and worship, which although at all times, yet chiefly upon the Lord's Day, commonly called Sunday, ought soe to be done, but instead thereof many idle, loose and disorderly people doe wilfully profane the same in tipling, shooteing, gameing, and many other vicious exercises,

pastimes and meetings, whereby ignorance prevails and the just judgement of Almighty God may reasonably be expected to fall upon this land if the same by some good orders be not prevented: A. D. 1691.

Be it therefore enacted by the Pallatine and the rest of the Lords and absolute Proprietors of this Province, by and with the consent of the Commons in this present Parliament assembled, and it is hereby enacted by the authority of the same, that from and after the ratification hereof, all and every person and persons whatsoever shall on every Lord's Day apply themselves to the observation of the same by exercising themselves **** of piety and true religion; and that no tradesman, artificer, workman, labourer or any other person whatsoever shall use or exercise any worldly labour, businesse or worke of their ordinary calling on the Lord's day or any parte thereof, (workes of necessity or charity only excepted); and that every person being of sixteene yeares or upwards offending in the premises shall for every such offence forfeit the summe of five shillings for each person every day. And that noe person or persons whatsoever shall publickly cry, shew forth or expose to sale or sell any wares, merchandizes, fruits, herbes, goods or chattells whatsoever, upon the Lord's Day or any part thereof, upon paine every person soe offending shall forfeit the said goods soe cryed and showne forth or exposed to sale or sold. No work of ordinary calling to be done on Sunday.

And be it further enacted by the authority aforesaid, that noe planter, butcher or heigler or any of their servants or slaves, or any other person or persons whatsoever, shall use, employ, or travel upon the Sabbath day with any boate, wherry, canoe or periaugaw, (except it be upon some case of necessity or publick worship), upon paine that every person soe offending shall forfeit the summe of five shillings for every such offence; or if any taverne or publick house keeper shall sell any wine, beere, punch or other licquor whatsoever, (unless it be for necessary occasions, for lodgers or sojourners,) upon paine that every person every time soe offending shall forfeit the summe of five shillings. Other offences described.

And be it further enacted by the authority aforesaid, that if any master, mistresse or overseer shall cause or encourage any slave or slaves to worke on the Sabbath day, shall forfeit for every offence for every slave the summe of five shillings. No slave to be allowed to work.

And whereas the odious and loathsome sin of drunkenness hath of late growne into common use within this province, being the roote and foundation of many other enormous sins, *Be it therefore enacted* by the authority aforesaid, that all and every person and persons that shall after the ratification of this Act be drunke, shall forfeit the summe of five shillings for every such offence. Persons found drunk.

And forasmuch as profane sweareing and curseing is forbidden by the word of God, *Be it further enacted* by the authority aforesaid, that noe person or persons shall after the ratification hereof profanely sweare or curse, upon paine of forfeiting seaven pence halfepenny for every such oath or curse. Profane swearing.

And be it further enacted, that if any person or persons offending in any of the premises shall be thereof convicted before a Justice of the Peace of the county where the said offence shall be committed, in his view or confession of the party, or prooffe of any one or more witnesses upon oath, which the said Justice is hereby impowered to give or administer, the said Justice shall give a warrant under his hand and seale to the Constable or Constables where such offence or offences shall be committed, to seize the said goods cryed, shewne or put to sale as aforesaid, and to sell the same, and to leavy the other forfeitures or penalties by way of dis- Proceedings in case of offences against this act.

A.D. 1691.

tresse or sale of the goods of every such offender distrained, rendering to the offender the overplus of the money raised thereby. And in default of such distresse or in case of insufficiency or inability of the said offender to pay the said forfeitures or penalties, that then the party offending do sett publickly in the stocks for the space of two houres. And all and singular forfeitures aforesaid shall be by the Justice delivered to the Treasurer for the use of this country; save only that it may be lawful to and for such Justice out of the said forfeitures and penalties to reward any person or persons that shall informe of any offence against this Act, soe that such reward exceed not the third part of the forfeitures and penalties; and that the said Treasurer be accountable to the Parliament for the same.

Dressing of
meat and
selling milk
excepted.

Provided that nothing in this Act contained shall extend to the prohibiting of dressing meate in families, or dressing and selling meate in tavernes or victualling houses for such as otherwise cannot be provided, nor the cryeing or selling of milke before nine in the morning or after foure in the afternoone on Sunday. *Provided* alsoe that noe person shall be prosecuted or molested for any offence before mentioned in this Act, unlesse he be prosecuted for the same within tenn dayes after the offence committed.

*Read three times, past and ratified in open Parliament,
this eleventh day of December, Anno Dom. 1691.*

SETH SOTHELL,
G. MUSCHAMP,
W. DUNSTON,
HENRY SYMONDS.

No. 75. **AN ACT TO PUNISH PERSONS WHICH DIVULGE REPORTS TO THE DISHONOUR OF THE RIGHT HONOURABLE THE LORDS PROPRIETORS AND THE DISTURBANCE OF THE PEACE OF THE PRESENT GOVERNMENT.**

Preamble.

WHEREAS the Lords and absolute Proprietors of Carolina have under their hands and seales mutually covenanted that the eldest of the Lords Proprietors who were proprietors the first of March one thousand six hundred sixty-nine, who should be personally in Carolina, shall of course be the Pallatine's Deputy, and if noe such Proprietor be in Carolina, he that hath been longest a proprietor and is in Carolina of the age of twenty-one yeares shall be his Deputy; but after the yeare seaventeen hundred and the decease of those that were proprietors the first of March one thousand six hundred sixty-nine, the eldest man of the then Lords Proprietors shall be alwayes the Pallatine's Deputy; which forme of succession to be perpetually established among them and remaine the sure and unalterable forme and rule of succession for ever, unto which they did oblige themselves, their heires and assigns, in the most binding waye that can be devised, which their Lordships have been pleased at severall times to make known to the Grand Council and Parliament in this parte of this Province, to be communicated to all others the inhabitants thereof; notwithstanding which some evill minded persons doe indulge and encourage a report that a lesser number of proprietors than those which putt their hands and seales to the aforesaid covenants and agreements ***** other comissions for the government of this part of this province, contrary to the honour of the same, which reports doe tend to the lessening of the venerable esteem which the inhabitants of this Province have and ought

to have of their Lordships and of their sacred and unalterable covenants and agreements, and the apparent disturbance of the peace and quietude of the present and legal government, for the prevention whereof, A. D. 1691.

Be it enacted by the Pallatine and the rest of the Lords and absolute Proprietors of this Province and by and with the advise and consent of the Commons in this present Parliament assembled, and it is enacted by the authority of the same, That whosoever shall presume to divulge any such reporte for the future shall suffer three months imprisonment without bayle or mainprize, or forfeit tenn pounds, to be recovered by bill, plaint or information in any of the courts of record within this part of this province, in which noe essoin, protection or wager of law shall be allowed or admitted, one halfe whereof shall be to the informer or him or them that shall sue for the same, the other halfe to the publick use of this part of this province, to be disposed of by the Parliament.

*Read three times, past and ratified in open Parliament, the
eleventh day of December, Anno Dom. 1691.*

SETH SOTHELL,
G. MUSCHAMP,
W. DUNSTON,
HEN. SYMONDS.

AN ACT TO INDEMNIFY ALL OFFICERS WHICH HAVE EXECUTED ANY ORDERS OF PARLIAMENT. No. 76.

WHEREAS severall orders of Parliament hath been executed by Edward Rawlings, Serjeant or his Deputy, some of which said orders were attested by John Moore, Esq. Speaker, and many others of the said orders were signed and attested by Jno. F. Guerard, Clarke of the Parliament: wherefore for the preventing of disputes and controversys that may happen by the different signing and attesting of the said orders, and for the better securing and indemnifying of all officers in the execution of the said orders, Preamble.

Be it therefore enacted by the Pallatine and the rest of the Lords and absolute Proprietors of the Province of Carolina, by and with the advise and consent of the Commons in this present Parliament assembled, and it is enacted by the authority of the same, That all and every the execution of every order of Parliament, as well those that have been signed and attested by the Clarke as those which have been signed and attested by the Speaker, are and is hereby declared authentic and legal, and sufficient to all intents and purposes whatsoever.

And be it further enacted by the authority aforesaid, and it is hereby enacted by the authority of the same that in * * * * * and Edward Rawlings, Gentlemen, or any or either of them, or any other Officer of Parliament whatsoever, or any other taken into their assistance at the commencement, that shall or may be arrested or imprisoned in any place within this part of this province for or by reason of his, her or their * * * signing, attesting or executing any order or orders of Parliament on any person or persons whatsoever, that he or they soe arrested or imprisoned shall plead the general issue and give the special matter and this Act in evidence; And if the verdict pass for the defendant, or the plaintiff be nonsuited, the Judges shall allow the defendant double costs. And noe

A. D. 1691. action against any of the aforesaid officers or persons for the execution of any of the aforesaid orders shall be brought after six months from the ratification of this Act; any, other act, statute, law or custome to the contrary notwithstanding.

*Read three times, past and ratified in open Parliament, the
eleventh day of December, Anno Dom. 1691.*

SETH SOTHELL,
G. MUSCHAMP,
WILSON DUNSTON,
HENRY SYMONDS.

No. 77. AN ACT TO ESTABLISH AND SETTLE THE WEIGHT OF SPANISH COYNE.

Preamble.

FORASMUCH as great quantities of light Spanish money and forreign coyne is and may be brought into this part of this province, which doth and may hereafter much more prejudice and damnifye the inhabitants of the same if due care be not taken and provision used to prevent the * * *

Value of
Mexican and
Peruvian
dollars.

Be it therefore enacted by the Pallatine and the rest of the Lords and absolute Proprietors, by and with the advise and consent of the Commons in this present Parliament assembled and by the authority of the same, That all Dollars or pieces of eight of the coyne of Mexico Pillar and Sevell, being of or containeing full thirteen penny troy weight or more shall be and pass currantly here in this part of this province for five shillings, and every Spanish halfe dollar or halfe piece of eight of the aforesaid coyne, being of and containeing sixpenny and halfe penny weight or more shall be and pass currant here as aforesaid for two shillings and six pence for every such halfe piece. And all Spanish dollars and pieces of eight of the coyne of Peru, being of and containing full thirteen penny troy weight shall be and pass currant here for four shillings; and every Spanish halfe dollar or halfe piece of eight of the coyne of Peru containing six penny and halfe penny weight or more, shall be and pass currant here for two shillings.

Dollars not of
full weight.

And it is enacted by the authority aforesaid, that all silver dollars or pieces of eight of the coyne of Mexico Pillar and Sevell, that are not and do not weigh the full weight as aforesaid, shall pass for and be currant money at the price of four shillings; and every halfe dollar or halfe piece of eight of the coyne aforesaid, not being of and containeing the weight as by this Act is * * *, shall be and pass currant for two shillings, provided that they are and doe containe the full weight of tenn penny troy for the whole and five penny weight the halfe dollar.

Weighers
appointed.

And it is further enacted by the authority aforesaid, that Edward Rawlings and Anthony Lawson are hereby required and appointed to keep a true standard of all such weights for the weighing of the aforesaid coyne, to prevent all debate, controversys and inconveniencys that may arise and accrew for want of the same.

And whereas noe due and condigne punishment is at this time provided for such evill disposed persons as shall clipp, wash, file or deface or counterfeit any Spanish or forreigne coyne that is permitted to be the currant money of this parte of the province, of any weight whatsoever, by the reason whereof divers evill disposed persons are emboldened and encouraged to act and committ the same, for the remedy whereof, *Be it enacted*

by the authority aforesaid, that if any person or persons whatsoever shall clipp, wash, file, deface or counterfeit any Spanish or forreigne coyne that is and shall be currant in this part of this province, that every such offence shall be deemed and judged felony, without benefit of clergy; and the offenders therein, their procurers, aiders and abettors, being convicted according to law, shall suffer as in case of felony.

A. D. 1691.

*Read three times and past and ratified in open Parliament
this eleventh day of December, 1691.*

SETH SOTHELL,
G. MUSCHAMP,
W. DUNSTON,
HEN. SYMONDS.

AN ACT to Regulate the Election of Members of Assembly. [Ratified Oct. 15, 1692; to continue till the next session of the General Assembly. Expired. The original Act not now to be found. See Act No. 108.] No. 78.

AN ACT for Destroying Unmarked Cattle. [Ratified Oct. 15, 1692, for 24 months. See No. 127. The original Act not now to be found.] No. 79.

AN ACT to Prohibit the Engrossing of Salt, and to Ascertain Weights and Measures, and to appoint a Market Place in Charlestown. [Ratified Oct. 15, 1692; to continue 24 months. The original Act not now to be found. Expired.] No. 80.

AN ACT Inhibiting the Tradeing with Servants and Slaves. [Ratified Oct. 15, 1692, to continue for two years. Continued by Acts No. 116, 123. Expired. The original Act not now to be found. See Acts No. 34, 60, 81, 135.] No. 81.

AN ACT to Prevent Mariners and Seamen running into Debt. [Ratified Oct. 15, 1692; to continue 26 months. Continued by Acts No. 117, 123. The original Act not now to be found.] No. 82.

AN ACT for the Raising of a Publick Store of Powder for the Defence of this Province. [Ratified Oct. 15, 1692; for 23 months.—Expired. The original Act not now to be found.] No. 83.

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No. 84. AN ACT for the Settling of Pilotage. [Ratified Oct. 15, 1692; for 25 months. Expired. The original Act not now to be found.]

No. 85. AN ACT for the better Observance of the Lord's Day, commonly called Sunday. [Ratified Oct. 15, 1692. Repealed. See Act of 12th Dec. 1712, of the same title, section 14. The original Act not now to be found.]

No. 86. AN ACT to prevent Swine going loose and at large in or about Charlestowne and to prevent Nuisances. [Ratified Oct. 15, 1692. The copy inserted in this edition, is from Trott's Laws, page 26. See collection of Acts relating to Charleston, in the last volume of this work.]

No. 87. AN ACT to impower the several Magistrates, Justices, Ministers, and Officers within this part of this Province to execute and put in force an Act made in the Kingdom of England, Anno 31, Caroli 2, Regis, commonly called the HABEAS CORPUS ACT. [Ratified Oct. 15th, 1692. Repealed by Section 5, of the Habeas Corpus Act of Dec. 12, 1712.—The original Act not now to be found.]

No. 88. AN ACT FOR THE TRYALL OF SMALL AND MEANE CAUSES. [This Act is continued by Acts No. 134, 163, 257, 264, 289, 309, and made perpetual by Act of Dec. 12, 1712, to make perpetual the several Acts therein mentioned. The original of the present Act not now to be found. Inserted from Trott's Laws of South Carolina, page 27.]

Preamble. WHEREAS the charges in the Sheriff's Court and Courts of Pleas, by reason of the several Officers that must of necessity attend the said Courts, whereby in most actions of debt of lesser value the fees and charges do many times surmount the debt sued for in the said Courts, not only oftentimes to the utter ruin of the defendant, but also sometimes to the great damage and prejudice of the plaintiff, for the future prevention thereof,

Be it enacted by his Excellency William, Earl of Craven, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the South-West part of this Province, and it is enacted by the authority of the same, That any one or more Justices of the Peace are impowered by their warrants under his or their hands and seals, directed to some one of the Constables, in all actions of debt or other demands whatsoever, for any sum or matter to the value of forty shillings or under, which actions are hereby made issuable, tryable and determinable only before a Justice or Justices as aforesaid, and in no Court of Pleas or Judicature whatsoever, to cause to

be apprehended and brought before the next Justice of Peace, any person or persons which have or do refuse or neglect to pay any creditor complaining of his or their debt or debts or demands aforesaid, with all witnesses which are required by either plaintiff or defendant, for the better proof, clearing and opening the actions aforesaid, and after both parties, with witnesses (if any be required) before him or them are come, to examine, hear, try, judge and finally determine all complaints and actions of debt or demands as aforesaid, before him or them brought; and the said Justice or Justices are hereby impowered, in case witnesses are not or cannot be produced to prove any debt, matter or thing, which shall or may be brought before him or them as aforesaid, to take the party or parties oath or oaths complaining, touching all matters that shall be in dispute, which oaths shall be first proposed or given to the defendant or defendants, and upon his or their refusal to take an oath, and answering to such questions as shall be demanded by the said Justice or Justices, then the Justice or Justices shall have power to examine the plaintiff or plaintiffs, on his or their oaths, and adjudge and determine all matters as aforesaid, according to justice and equity, and after determination, Execution upon the goods and chattels of the defendant, to the full value of the debt due, and the costs and charges hereafter in this Act provided to be paid, to cause to be levied, and for want of goods and chattels, the body of the defendant or defendants to the common goal to commit, until he or they shall have paid his or their debts as aforesaid, according to the practice of the Court of Pleas.

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One or more Justices may decide suits of 40s. or under, after hearing the parties and their witnesses.

And may issue execution.

And it is hereby enacted, That all and every Constable or Constables shall cause all goods and chattels taken in execution by virtue of this Act, to be kept in safe custody three days after they be taken in execution, and the owner or owners of all such goods shall have three days time to satisfy the said debt and cost, and upon delay or denial, then all such goods taken in execution as aforesaid, to be appraised by two or more of the neighbouring freeholders, and the overplus (if any be) to the owner to be returned. And all Constables to whom either original warrant, suspense, summons for witnesses, or execution upon goods or chattels, or the body of the defendant or defendants as aforesaid, are directed by any one or more of the Justices of the Peace, are hereby impowered and commanded to give due obedience in execution thereof, according to the true intent and meaning of this Act.

Three days to be allowed defendant.

Constables to execute Justices warrants.

And it is hereby enacted, That all original Warrants, granted by virtue of this Act, shall have inserted and plainly signified the name or names of the plaintiff or plaintiffs, the debts demanded, and whether by bill, accompt, assumpsit or otherwise due, with the day of the month, and, as near as may be judged, what time of the day dated.

Particulars to be inserted in the warrant.

And be it further enacted by the authority aforesaid, That every Justice or his Clerk* shall for each warrant receive seven pence half penny, and for every execution fifteen pence, and that every Constable for every original warrant executed, shall be allowed fifteen pence, and for every subpoena seven pence half penny, and for every execution fifteen pence.

Fees.

And that all possible means may be used for the payment of the plaintiff or plaintiffs after execution ordained against the body of the defendant or defendants, It is hereby enacted, That any one or more Justices have power, and they are hereby impowered, in all such cases where he or they shall judge the defendant not worth the debt recovered as aforesaid, then and not otherwise, by and with the consent of the defendant and

Defendant may be hired out.

* See Act No 387, par. 4.

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defendants, him or them to hire to labour, at so much per day as either the plaintiff or any indifferent person will allow, until the whole debt by the produce thereof be paid, which produce the Justice or Justices are hereby required to cause to be employed to no other use but payment of debts as aforesaid.

Debts not
exceeding 40s.
to be tried only
as by this Act
directed.

And it is further enacted by the authority aforesaid, and it is the true intent and meaning of this Act, That any person who remains indebted by any bond, bill, specialty, accompt, contract, agreement, assumpsit or otherwise howsoever, to the sum of forty shillings or under, shall only be suable and tryable before a Justice of the Peace in manner and form aforesaid, as if the original debt or demand had been under the same sum of forty shillings.

And be it further enacted, That every person which shall bring any action or suit in any court within this part of this province, for more than forty shillings, and thereupon shall have verdict for less than forty shillings, shall loose his cost of suit, except in actions of trespass and actions of defamation.*

Limitation.

And be it further enacted, That this Act, and every thing therein contained, shall continue in force two years and no longer.†

Read three times, and ratified in open Assembly,
October 15, 1692.

PHILIP LUDWELL,
THO. SMITH,
PAUL GRIMBALL,
RICH. CONANT,
JOSEPH BLAKE.

- No. 89. AN ACT to provide Indifferent Jurymen in all Causes Civil and Criminal. [Ratified Oct. 15, 1692. Obsolete. See No. 119, an Act with same title, repealed. The original Act not now to be found.]

- No. 90. AN ACT for Settling and Continuing a Watch in Charlestown, and to clear the same from underwood. [Ratified Oct. 15, 1692. Repealed by Act No. 98. The original Act not now to be found.]

* Altered, and in actions of Defamation if verdict under 40s. no more costs than damages. See par. 9 of Act. Dec. 12, 1712, concerning limitation of actions.

† See the precedent Acts, Nos 38, 43, 55. This Act is referred to in the following Acts, viz: No. 111, par. 2, 3; No. 123, par. 5; No. 126, par. 2; No. 133, par. 5; No. 135, par. 8. In the Act relating to the office and duty of a Coroner, par. 12, April 9, 1706. In the Act for establishing Religious Worship, Nov. 30, 1706, par. 41. In the Act for ascertaining the fees of a Justice of the Peace, May 7, 1709, par. 1. In the Act to prevent abuses by false Weights and Measures, April 8, 1710, par. 5. In the Act for regulating Taverns and Public Houses, June 28, 1711, par. 1, 5. In the Act entitled an additional Act to an additional Act, Nov. 10, 1711, par. 3, 7. In the Act for appointing a Ferry, June 7, 1712, par. 7. In the Act for the better Relief of the Poor, Dec. 12, 1712, par. 6, 14. In the Act entitled an additional Act to an Act, &c. Dec. 18, 1713, par. 6. In the Act for the better governing and regulating white servants Dec. 11, 1717, par. 1, 10, 14. In the Act for the trial of Small and Mean Causes, June 13, 1747. County Court Act of March 17, 1783, par. 56.

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- AN ACT** for making and mending Highways and Paths, and for cutting of Creeks and Water Courses. [Ratified Jan. 14, 1692—3, continued by the Act No. 123. Expired. See No. 31. The original Act not now to be found.] No. 91.
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- AN ACT** to make Current, Establish and Settle the Weight of Forreign Coyne. [Ratified Jan. 14, 1692—3, for two years. Expired. See Acts No. 77 and 118. The original Act not now to be found. For an explanation of 1692—3, see the note to Act No. 113.] No. 92.
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- AN ACT** for the Entry of Vessels. [Ratified May 20, 1693, for 22 months. Continued by Acts No. 117 and 123. Expired. The original Act not now to be found.] No. 93.
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- AN ACT** for Ascertaining the Guage of Barrells, and for Avoiding of Deceits in Selling and Buying Beef and Pork. [Ratified May 20, 1693. Obsolete. See No. 63. The original Act not now to be found.] No. 94.
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- AN ACT** for Regulating Publick Houses, and for Ascertaining the Prices of Liquors. [Ratified May 20, 1693. Obsolete. The original Act not now to be found.] No. 95.
-
- AN ACT** for Raising Money for the several uses within mentioned. [Ratified May 20, 1693. Obsolete. The original Act not now to be found.] No. 96.
-
- AN ACT** for the better Settling and Regulating the Militia. [Ratified May 20, 1693, to continue for 18 months. Continued by Acts No. 117, 123. Expired. The original Act not now to be found.] No. 97.
-
- AN ACT** for Settling and Continuing a Watch in Charlestown, and to clear the same from underwood. [Ratified May 20, 1693, for 18 months. The Act No. 90, on the same subject, repealed. This Act continued by Acts No. 117, 123. Expired. The original Act not now to be found.] No. 98.

A. D. 1693.

No. 99. AN ACT for Ascertaining Public Officers' Fees. [Ratified May 20, 1693. Enacted for 23 months. Repealed by Act No. 115. The original Act not now to be found.]

No. 100. AN ACT for the better securing the Payment of Debts due from any Person inhabiting and residing beyond Sea, without the limits of this part of the Province. [Ratified May 20, 1693. Repealed by Act of the same title, of Dec. 12, 1712, which is also repealed. The original Act not now to be found.]

No. 101. AN ACT for the Better Ordering of Slaves. [Ratified Sept. 11, 1693. Continued by Act No. 123; and see Act No. 141. Expired. The original Act not now to be found.]

No. 102. AN ACT for the Poor. [Ratified June 20, 1694, for two years. Expired—See No. 132, 159. The original Act not now to be found.]

No. 103. AN ACT to encourage the making of Wine, Indigo, and Salt, within this settlement. [Ratified June 20, 1694. Expired. The original Act not now to be found.]

No. 104. AN ACT to encourage the planting of Wheat. [Ratified June 20, 1694. Obsolete. The original Act not now to be found.]

No. 105. AN ACT for the limitation of Actions and for the avoiding of suits in Law. [Ratified June 20, 1694. Obsolete. The original Act not now to be found.]

No. 106. AN ACT for the better and more certain keeping and preserving of old Registers and Publique Writings of this part of the Province. [Ratified June 20, 1694. Enacted for three years. Expired. See Act for reviving and continuing, &c. passed Feb. 12, 1719-20. (No. 434 of Trott's Laws.) The original Act not now to be found.]

A. D. 1694.

No. 107.

AN ACT FOR THE BETTER SETTLEMENT OF THIS PROVINCE: Explained by No. 124, parag. 15. The original Act not now to be found. Copied for this edition from Trott's Laws of South Carolina, page 35.]

FORASMUCH as a great part of the most fertile land of this Colony hath been taken up several years past by persons deceased, whose heirs make no improvement upon or claim to the same, or by persons which are departed this Province, which neither by themselves or agents settle the same, and neglect or refuse to disclaim their title thereto, whereby the country for want of contiguous settlements is much weakened, and the rents due to the right honorable the true and absolute Lords and Proprietors of this Province are, and are like to be unpaid, *Be it enacted* by his Excellency William Earl of Craven, Pallatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advise and consent of the rest of the members of the General Assembly, now met at Charlestown for the south west part of this Province, that all titles and claims to all Plantations or Town Lots not inhabited, for which the owners neglect or refuse to pay the Quit Rents, and upon which are no goods or chattels of the owners, whereby distress may be made for the rents due to their Lordships, by the space of two years next after the ratification of this Act, are hereby made and declared null and void, and the said Plantations and Town Lots shall be escheated, and revert to the true and absolute Lords and Proprietors, as if no grant, patent, or sale for the same had ever been passed under the great seal appointed for that purpose, to be conveyed to such other persons as shall be most willing to plant the same.

Preamble.

Tracts and lots not claimed to be escheated in two years.

Provided always and it is hereby enacted, That all Plantations or town Lots purchased of the true and absolute Lords and Proprietors are excepted out of this Act.

Read three times and ratified in open Assembly, June 20, 1694.

THOMAS SMITH,
STEPHEN BULL,
RICHARD CONANT,
WM. SMITH,
WM. HAWETT.

AN ACT FOR THE DETERMINATION OF GENERAL ASSEMBLIES, AND FOR PREVENTING OF INCONVENIENCIES HAPPENING BY LONG INTERMISSION OF GENERAL ASSEMBLIES. [Confirmed by the declaratory and repealing Act of March 10, 1696-7, sec. 1. See also the Act to keep inviolate, &c. passed Dec. 15. 1716, sec. 30. See also the Act to ascertain the manner and form of electing members, &c. passed March 20, 1718-9, sec. 22. The original Act is not now to be found. The Act now inserted is copied from Trott's Laws, p. 36.]

No. 108.

Be it enacted by his Excellency, William Earle of Craven, Pallatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advise and consent of the rest of the members of

Duration of this Assembly three years.

A. D. 1694.

Assembly to be
called yearly.

the General Assembly, now met at Charlestown, for the South west part of this Province, and by the authority of the same, That this present General Assembly shall determine and be dissolved at the expiration of three years next after the date of the writs issued out for calling the same. And that every General Assembly hereafter called by virtue of any writs by the right honorable the Pallatine, and the rest of the true and absolute Lords and Proprietors of this Province, or their deputyes, shall determine and be dissolved every two years, next after the date of the respective writs by which they are called.

Members to
forfeit 10s. for
every day's
voluntary
absence.

And be it further enacted, that the sitting and holding of General Assemblies shall not be discontinued or intermitted above one year at the most, but that within one year at the most, from and after the determination of this or any other General Assembly, or if occasion be oftener, new writs be issued out by the Pallatine and Lords Proprietors or their deputyes, for calling, assembling and holding of another General Assembly.

And be it further enacted by the authority aforesaid, and it is enacted by the authority of the same, that all and every member of this General Assembly or of any and every General Assembly hereafter called, holden and assembled, shall forfeit the summe of ten shillings current money of this Province, for every day they or he shall be absent from the house or depart without leave first obtained from the Governor or Speaker, by and with the consent of the major part of the members then present, or unless sickness or some other weighty and important business, (of which the major part of that respective house to which that member so absent doth belong shall be judge,) be offered and allowed for excuse, and that the Governor or Speaker shall sign a warrant, directed to the messenger or serjeant of their respective house, to leavy upon the goods and chattels of the person forfeiting, and which refuse to pay for every day they shall be adjudged to have absented themselves causelessly; and upon the messengers or serjeants return of no goods or chattels to be found, the Governor and Speaker shall sign warrants directed to the serjeant or messenger of their respective house, against their respective members which have been absent as aforesaid, to apprehend their or his body, and in safe custody to keep, till they shall pay their respective forfeitures, or be discharged by any order of their respective house. And all the money paid or levied by vertue of this Act, shall be disposed of by the major part of that house to which that member so absent doth belong, in defraying the charges and expenses of the members which attend the service of the house.

Provided, that this Act nor any thing therein contained, shall be construed to take away the power and prerogative that the Lords Proprietors have from the Crown, to adjourn, prorogue or dissolve any General Assembly of this part of this Province, when and as often as they shall think fit and expedient so to do.

Read three times and ratified in open Assembly, June 20, 1694.

THOMAS SMITH,
WM. HAWETT,
WM. SMITH,
PAUL GRIMBALL,
STEPHEN BULL,
RICHARD CONANT.

NOTE.—The two years of the first section altered to three years by paragraph 21 of Act of Sept. 19, 1721, which repeals the former Acta from 1704 to 1718-9.

A. D. 1694.

AN ACT to put in force the several Acts of the Kingdom of England therein particularly mentioned. [Ratified June 20, 1694. See the Act on the same subject of Dec. 12, 1712, parag. 15. The original Act not now to be found.] No. 109.

AN ACT to prevent the Sea's further encroachment upon the Wharf at Charlestowne. [Ratified June 16, 1694. The original Act not to be found. See an additional Act to this Act, No. 131.] No. 110.

AN ACT FOR MAKING SUFFICIENT FENCES, AND KEEPING THE SAME IN REPAIR. No. 111.

(*Grimké's Public Laws commence with this Act. Inserted from Trott's Laws of South Carolina, p. 37.*)

WHEREAS, divers of the inhabitants of this Province, by keeping low and ill Fences, where corn and other provisions are planted, have enticed horses, neat cattle and other stock, their coming into the said corn and other provisions, which said inhabitants being evilly minded, do set canes, and use other dangerous and indirect means, which have destroyed many horses and other cattle; For prevention whereof, *Be it enacted* by his Excellency William Earl of Craven, Pallatine, and the rest of the true and absolute Lords and Proprietors of the Province of Carolina, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south west part of this Province, That all planters and others of the inhabitants of this Province, who do plant corn or other provisions, or any other thing which they would have secured from damage or damages of horses, neat cattle, or any other stock, shall make, have and keep a good, strong and sufficient Fence six feet high, about all sorts of provisions, and shall from time to time so maintain and keep the same. Preamble.

And be it further enacted by the authority aforesaid, That no planter or other person shall have in any of his enclosures any canes or stakes, or any other thing that may damnify or mischief any horse, neat beast or cattle, under the forfeiture for every such fault, of the sum of forty shillings, to be levied as is appointed by the Act of small and mean causes, and paid to the commissioners or trustees for the poor, for the poor's use. No Canes or Stakes that may injure horses or cattle, allowed in enclosures. Penalty.

And be it further enacted by the authority aforesaid, That if any horse, neat beast or cattle shall be found breaking into, or found in any man's plantation that hath sufficient Fences, according to this Act, the owner or owners of such plantation shall by warrant from any Justice of the Peace, directed to the next constable where the said injury is committed, summons three neighbouring freeholders, which freeholders, or any two of them, are hereby impowered and appointed to make a true and just appraisement of any such damage or injury, which said appraisement the appraisers shall give under their hands and on their oaths, and on which appraisement any Justice of the Peace is hereby impowered and required to give execution, if demanded, for the first damages on the owner or owners of such horses, neat beast or cattle, as much as the said damage shall be praised to, according to this Act. And for the second fault of the Damages, if Cattle break through a sufficient fence.

A. D. 1694.

same horses or neat cattle in the same plantation, the said Justice is required to give execution double what the damages shall be appraised as aforesaid, in the same way and manner as in the Act entitled, an Act for small and mean causes, is directed for small debts in the like case: but what shall amount to more then forty shillings, to be recovered by a due course of law, as any other action of trespass, according to the proportion aforesaid.

Limitation.

And be it further enacted, That this Act, and every thing therein contained, do continue in force two years, and no longer.

Read three times, and ratified, in open Assembly, June 20, 1694.

THOMAS SMITH,
PAUL GRIMBALL,
STEPHEN BULL,
RICHARD CONANT,
WILLIAM HAWETT,
WILLIAM SMITH.

No. 112. AN ACT to raise Money to be disposed of for the Encouragement of the Production and Manufacturing of divers sorts of Provision and Commodities of the growth of this Province. [Ratified, June 20, 1694. For two years. Repealed by Act of November 16, 1700. Original Act not now to be found.]

No. 113. AN ACT FOR THE RAISING OF A PUBLICK STORE OF POWDER FOR THE DEFENCE OF THIS PROVINCE.

Preamble.

WHEREAS, for the better prevention of danger in these times of warr with the French King, and the dayly hostilities continually committed by the subjects of the said King, whereby this Province with other of their Majesties Plantations in America are in great danger, and whereas it is absolutely necessary in order to the future security and defence of their majesties subjects, and of all ships and vessells trading to and from this Province, that there be a publick store of Powder alwayes in readiness:

Enactment.

Be it therefore enacted by his Excellency William Earl of Craven, Palatine, and the rest of the Lords and absolute Proprietors of the Province of Carolina, by and with the advice and consent of the rest of the members of the Generall Assembly, now met at Charlestowne for the south and west part of this Province, and *it is enacted* by the authority of the same, that all and every master and commander of all and every ship and ships, vessell and vessells, that now are or hereafter shall come into any port, creek or harbour belonging to this Government, and after the ratification of this Act, shall make a true and just entry in the Secretaries Office of the burthen and tunnage of his or their ship or vessell, and every such master or commander shall pay or deliver the full and just quantity of half a pound of good, cleane, and serviceable gunpowder, for every and each tun that his or their ship or vessell doth or shall measure and containe by the rulle, and for want of such powder to be paid and delivered as aforesaid, the master or masters, commander or commanders, shall pay or cause to be paid, in current silver money of the Province, the summe of

Masters of
Vessels to make
true entry.

Tax in powder
to be paid.

fifteen pence for each and every tunn which his or their ship or ships, vessell or vessells doth or shall measure by the rulle or containe as aforesaid. And whereas William Smith of Charlestowne, for and in consideration of the powder, or money in lieu thereof, by him to be received by vertue of this Act, without giving any account for the same, hath given sufficient security to the honorable the Governor, that he will well and sufficiently mount or cause to be mounted, eleven of the Great Guns being or lying at Charlestowne, some time within the term of six months after the ratification of this Act, and six more of the Great Guns lying off Charlestowne, some time within the term of twelve months after the ratification of this Act; and the said seventeen Guns mounted as aforesaid shall keep and continue well and strongly mounted upon carriages, made of good sound Sedar planke and timber, standing upon good platforms, untill the expiration of two years from and after the ratification hereof, and so leave the same, and shall and will keep and have two barrells of Gunpowder in carriages alwayes ready for the publick defence of the Province, with sponges, worms, ladles and all things necessary and convenient, and the same quantity of powder at the expiration of two years, shall deliver to such person or persons as shall be appointed by the Generall Assembly to receive the same, without charge; and shall and will find powder to sallute vessells and for other necessary public occasions, according to the order of the Governor for the time being (the actual servis of warr over and above the said two barrells excepted.)

A. D. 1694.

Wm. Smith to
account.And to cause
Guns to be
mounted.

And it is further enacted by the authority aforesaid, that in case any master or masters, commander or commanders of any ship or ships, vessell or vessells, doth or shall make a false or short entry of the tunnage of his or their ship or vessell, contrary to the true intent and meaning of this Act, that in such case the aforesaid Wm. Smith shall and may and is hereby empowered to send a sworn surveyor on board any such ship or vessell the master or commander whereof is supposed to have made a false or short entry of her tunnage, and the surveyor is to measure the said ship or vessell, and whenever shee shall appeare to containe or be over and above what she was entered for, the master or commander shall pay or deliver for every tunn so entered short, the quantity of a pound of powder or two shillings and sixpence current silver, over and above what was due upon the first entry, and also the surveyor shall have and receive from such master or commander, for his pains and trouble, the sum of tenn shillings current silver. But in case it shall appear upon the measuring any ship or vessell, that she doth not containe more tunns than she was entered for, then the master or commander of such ship or vessell shall not be obliged to pay unto the surveyor any fees for his worke or paines in measuring the said ship or vessell.

Masters of
Vessels making
false entry.Fee to the
Surveyor.

And it is further enacted by the authority aforesaid, that if any master or commander of any ship or vessell shall neglect, refuse, or deny to pay and deliver all such quantity or quantities of powder or sums of money, which shall be due from him or them by vertue of this Act, unto the aforesaid Wm. Smith, in such case it may be lawful for the Provost Marshall by vertue of a warrant under the hand and seale of the Governor or Secretary for the time being, to be granted on the complaint of the aforesaid Wm. Smith, to arrest the person of such commander or to attach his or their ship or vessel, so that the said ship or vessell shall be held and contained in the custody of the law, or the person of the said master or commander, without baile or mainprize, until the said master or commander hath paid or delivered unto the said Wm. Smith, all such quantity

Masters of
Vessels
refusing to
comply.

A. D. 1694

and quantities of powder, or all such sum or sums of money as shall be due by vertue of this Act from him or them, for the tunnage of his or their ship or vessel, together with all the cost and charges that shall or may accrue by reason of the nonpayment as aforesaid, *Provided* nevertheless, that all ships and vessells that are or shall be hereafter built in and do belong to this Province, shall be wholly exempted from paying powder or money in the lieu thereof for their ship or vessell. And all ships or vessells not built in this Province, and whose owners inhabit this Province, shall be lyable to pay half the powder or money for each tunn their ship or vessell contains, as this Act before directs, any thing in this Act to the contrary in any wise notwithstanding.

Certificate
necessary to
clearance.

And it is further enacted by the authority aforesaid, that no ship or vessel be cleared in the Secretaries Office until the master produce a certificate from the powder receiver that he hath paid as this Act directs, on penalty that the Secretary for the time being, shall pay to said Wm. Smith all such powder or sums of money as shall be due from such ship or vessell. And for the better enabling the said Wm. Smith to perform the several things and duties imposed on him by this Act, *It is hereby enacted*, that every master of every ship or vessell, which shall arrive into any port of this part of this Province, shall make a list under his hand of all the letters which shall be brought in his ship or vessell, and the same together with the letters enlisted, shall deliver to Wm. Smith aforesaid, and none other, which list the said Wm. Smith shall fix up in some publick place in his house, to be reviewed by every person desirous thereof, and the letters therein shall carefully deliver to every person to whom they are directed, or to such person as shall be sent for the same, and every person which shall receive any letter or letters from the said Wm. Smith, shall pay him for every letter three pence thrée farthings and no more, and no master of any ship or vessell shall be permitted to make entry of his ship or vessell in the Secretaries Office before he hath a receipt for his list and letters from the said Wm. Smith. And this Act shall continue in force two years and after till the first and next session of a Generall Assembly and not longer.

Read three times and ratified in open Assembly, this seventeenth day of January, 1694-5.

JOSEPH BLAKE,
PAUL GRIMBALL,
STEPHEN BULL,
RICHARD CONANT,
WM. SMITH,
WM. HAWETT.

NOTE.—It frequently happens, that the early Acts of the Province are apparently dated with a double date, as 1714-5: it may be well to explain this. I copy the following from the 3d edition of Audley's Companion to the Almanach, p. 12, 13, and from Nicholas's Notitia Historica, 1824, p. 1, 2.

"Considerable difficulty is often felt by persons unaccustomed to Antiquarian literature, in understanding the alteration in the style; and likewise in exactly comprehending the year intended to be expressed, when written thus, 1673, 1734-5. The following short explanation is therefore submitted, in hopes of rendering the subject clear.

"Previous to September 1752 the civil or legal year in England, commenced on the day of the Annuntiation of the Virgin Mary, 25th March; while the historical year, began as at present on the day of the Circumcision, the 1st of January. Thus a confusion was created in

A. D. 1694.

AN ACT FOR REGULATING PUBLIC HOUSES.

No. 114.

WHEREAS the unlimited number of Taverns, Tapp Houses, and Preamble. Punch Houses, and the want of sobriety, honesty and discretion in the owners or masters of such houses, have and will encourage all such vices as usually are the productions of drunkenness; for the prevention whereof,

Be it enacted by his Excellency, William Earl of Craven, Palatine, and the rest of the Lords and absolute Proprietors of the Province of Carolina, and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown, for the south and west part of this province, And it is enacted by the authority of the same, that Tavern no person whatsoever shall sell any Wine, Sider, Beere, Brandy, Rum, Punch, or any strong drink whatsoever, under the quantity of one gallon, keepers to take out License. at one draught, until he or they have first obtained a licence from the right honourable Joseph Blake, Landgrave and Governor, for such selling of the aforesaid liquors under the quantity aforesaid, shall forfeit for every time he shall sell any quantity less than one gallon, five pounds current silver of this province, to be levied by bill, plaint or information in any of the courts within this province, twenty shillings thereof to the prosecutor, and five pounds to the Governor aforesaid. (Thus in the original.)

And be it further enacted, That every person which hereafter doth or shall retail any of the liquors aforesaid, shall pay to the right honourable Joseph Blake, Governor, for each licence for selling the same, for the time or term of one whole year after the date of the said licence, the sum of five pounds current money of this province for retailing of wine and

describing the year between the 1st of January and 25th of March: for Civilians call each day within that period, one year earlier than Historians. For example; the Civilians wrote January 7, 1658, while Historians who pay no attention to the 25th of March, call it January 7, 1659: though both describe the following March and all the ensuing months as being included in 1659. To prevent errors, that part of each year is usually written agreeably to both calculations, by placing two figures at the end; the upper being the civil or legal year, the lower the historical year: thus, February 3, 164⁸ Civil or Legal Year. Hence, whenever the year is so

written, (as it is in our early Acts of Assembly) the lower figure always indicates the year according to our present calendar and computation of time.

The alteration in the calendar, which formed what is usually called the old and new style, took place the 2d of September, 1752, on which day the old style ceased, and the next day became the 14th, instead of the 3d of September.

"In Scotland the year was ordered to commence on the 1st of January, instead of the 25th of March, by Proclamation of November 27, 1599.

"The calendar was improved in ancient times by Julius Caesar, who finding the sun performed his course in 365 days and a quarter, nearly, gave 365 days to each three years, and 366 days to the fourth year; by adding one day before the 6th of the Kalends of February; and from this, twice 6th, bis sextus, we have the term Bissextile or Leap year. But the Astronomers concerned in reforming the calendar under Pope Gregory XIII, observing that in four years the bissextile added forty-four minutes more than the real course of the sun, and that in 183 years this would cause the difference of a day, directed that in every 400 years there should be a retrenchment of three sextiles, the years expressing the centuries not being leap years, unless divisible by 4. Thus 1600 and 2000 are bissextile, but 1700, 1800 and 1900 are not. This improvement was adopted in England in 1752; in pursuance of an Act of Parliament, in which it was ordered that the day next following the 2d of September should be accounted not the 3d but the 14th of that month; the omission of the intermediate days causing the difference between the old and the new style. By the same Act of Parliament the commencement of the civil year was changed from the 25th of March to the 1st of January.

A. D. 1694. all sorts of liquor, and three pounds current money for retailing of any or all liquors, wine excepted.

Provided always, and it is hereby enacted, that no person which shall pay the sums of money aforesaid for a licence as aforesaid, shall for any reason whatsoever pay money for licence to sell the same within one whole year after the first payment as aforesaid. And all persons which have taken licence from the honourable Thomas Smith, late Governor, and paid for the same, shall not be obliged to pay for a licence before the expiration of the time for which they have paid respectively; any thing in this Act to the contrary contained notwithstanding.

Planters may
sell on their
own
Plantations.

Provided always, and it is hereby enacted, that any Planter may sell at any place out of Charlestown any quantities of liquors to the labourers in his own family or his neighbors, not to be drunk in his own house; any thing in this Act to the contrary notwithstanding.

And be it further enacted, that this Act shall continue in force the full term of one whole year, or till the honourable Joseph Blake shall cease to be Governor, which shall happen first, and not after.

*Read three times and ratified in open Assembly,
this 17th day of January, 1694—5.*

JOSEPH BLAKE,
PAUL GRIMBALI,
STE. BULL,
RICH. CONANT,
WILL. SMITH,
WILL. HAWETT.

NOTE.—See a subsequent Act inserted No. 130, March 16, 1695—6. The present Act is continued by Act No. 169, Aug. 26, 1699. See also Acts of Sept. 10, 1702, and June 20, 1711, on the same subject. The reviving Act, No. 169, has expired.

No. 115.

AN ACT FOR ASCERTAINING PUBLIQUE OFFICERS FEES.

Preamble.

FORASMUCH as all exactions, extortions, and corruptions, are and ought to be odious and prohibited in all well governed kingdoms, commonwealths and provinces, whatsoever,

Forfeiture for
taking more
fees than herein
directed.

Be it enacted by his Excellency, William Earl of Craven, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly now met at Charlestowne for the south west part of this province, *And it is enacted* by the authority of the same, That no publique officer or person whatsoever shall demand or require any sum of money, fee or reward, for any business or thing belonging to his or their respective place or places, other than such and so much fees as are hereby directed in the respective table of fees hereunto annexed, settled, limited and appointed, upon the forfeiture of one shilling for every penny he or they shall take and receive for the business, thing or matter relating to his or their office or offices more than is by this Act set down and appointed, the one moyety of the said forfeiture to be to the present Government, the other to the party grieved, which shall sue for the same within the yeare after the receipt of such money or thing; the same to be recovered by original writt, bill, plaint or information, in any of the courts of record

of this province, in which suite as aforesaid no wager of battle, essoigne, privilege, protection, or any other delay shall be allowed or admitted. A. D. 1694.

And be it further enacted by the authority aforesaid, that if it soe happen that any publique officer or person shall in execution of his or their respective offices and places doe any business, thing or matter relating to his said office or place, for which a certain fee is not set downe, limited and appointed in the table of fees hereunto annexed, in such case the said officer or person shall take so much fee as shall be thought reasonable, appointed and limited by the Governor for the time being, or any two Justices of the Peace of the province, wherein the said Governor or Justices of the Peace are uninterested, who are hereby authorized to appoint and limitt the same. And noe officer or person shall take or receive any or greater fee or thing for any business, matter or thing for which a certain fee is not appointed in the table of fees hereunto annexed, before the same be appointed and limited as aforesaid, upon paine of forfeiture of twenty pence for every penny they shall soe demand, receive and take; the said forfeiture to be recovered in the same manner and method as the forfeitures before by this Act are ordained. And every publique officer or person shall within twenty dayes after the ratification hereof set up and constantly keep a faire table of the respective fees belonging to his or their respective office, in such place as they usually execute the office, upon paine of the forfeiture of twenty shillings for every day they shall neglect as aforesaid, the said forfeitures to be to the same use and to be recovered in the same way, manner and method as the forfeitures before by this Act ordained and appointed, and this Act to continue twenty-three months after ratification thereof, and no longer.

Provision for cases where no fee is appointed in the table.

The table to be set up in the usual business office.

And be it further enacted, that an Act entituled "An Act for ascertaining Publique Officers Fees, ratified the 20th May, 1693," be and is hereby repealed and made null and of noe force, as if the same had never been enacted and made.

THE HONOURABLE JOSEPH BLAKE, ESQ. GOVERNOR, HIS FEES.

	L.	S.	D.
For every grant for Land signed or to be signed for 500 acres or under,....	00	10	00
For every grant signed or to be signed for more than 500 acres,.....	01	00	00
For signing the dispatch of every vessell,.....	00	01	00
For signing a testimoniall,.....	00	01	00
For signing a Marriage Lycence,.....	01	00	00
For signing letters of Administration for an Estate above twenty pounds,...	01	00	00
For signing letters of Administration for an Estate under twenty pounds,...	00	05	00
For signing a Warrant of Appraisement,.....	00	05	00
For signing the Probat of a Will,.....	00	10	00
For signing a Warrant for Land,.....	00	02	06
For an Injunction in Chancerye,.....	01	05	00
For signing a decree in Chancerye,.....	00	**	**
For a lycence to retail Spirits distilled here,.....	00	**	**
For signing a ticket for persons capable of contracting debts,.....	00	02	06

THE JUDGES OF THE COURT OF PLEAS FEES, AND THE OFFICERS FEES BELONGING TO THE SAID COURT.

	L.	S.	D.
For a paire of Writts,.....	00	04	00
For filing a declaration or Plea and Warrant of Attorney,.....	00	02	09
For a cōpye of a declaration or Plea attested,...	00	01	00
For a Subpena,.....	00	01	00

STATUTES AT LARGE

A. D. 1694.

	L.	S.	D.
For a Retraxitt,.....	00	01	00
For a Scire Facias,.....	00	02	00
For entering Judgement or Respitt,.....	00	01	00
For entering a Rule of Court,.....	**	**	**
For swearing every Evidence,.....	**	**	**
For the Venire to every action that goes to the Jury,.....	00	01	**
For writt of Inquirye,.....	00	02	06
For a Replevin and Bond,.....	00	03	00
For entering an Action in the Judges books that goes to the Jury,.....	00	05	00
For reading a Bond or other paper,.....	00	01	00
For taxing Cost,.....	00	03	00
For Execution,.....	00	02	00
For every special Court and attendance thereon,.....	01	00	00
For searching the Records of the Court,.....	00	01	00
For entering Satisfaction,.....	00	01	00
For a Coppye of a Record of the Court attested,.....	00	01	00
For the allowance of a Writt of Error,.....	00	05	00
For Bayle taken before the Judge,.....	00	05	00
For confessing Judgement,.....	00	01	00
For admission of any person to be an Attorney of the Court,.....	01	00	00
For filing the writt returned by the Marshall,.....	00	01	00
For filing a coppy of Bill, Bond and Declaration,.....	00	01	03
For entering Verdict of the Jury,.....	00	01	00
For a Bond from him who sueth by letter of Attorney to pay cost, and damage if cast,.....	00	02	00

ATTORNEYS FEES BELONGING TO THE COURT OF PLEAS.

	L.	S.	D.
For a Retaining Fee,.....	00	05	00
For drawing and engrossing a Declaration,.....	00	04	00
For Coppye of the Declaration,.....	00	01	00
For drawing a Warrant of Attorney,.....	00	01	00
For a Plea of Demurrar or any other pleading thereupon,.....	00	05	00
For fee upon tryall, writt of Inquirye, writt of Wast, or other motion,.....	00	05	00
For taxing Cost and taking out Execution, or fee at ending,.....	00	02	06
For attending Justices of Peace to take depositions from sick persons and others departing this Settlement,.....	00	05	00
For the Attorney to pay the Jury,.....	00	04	00
For drawing a coppye of a Bond or other paper declared upon,.....	00	02	06

THE REGISTERS OF BIRTHS, MARRIAGES, AND BURIALL, FEES.

	L.	S.	D.
For registering every Birth,.....	00	01	03
For registering every Marriage,.....	00	01	06
For registering every Buriall,.....	00	01	**
For searching the Register,.....	00	00	**
For every coppye of the Register with a certificate,.....	00	05	**

THE UNDER SHERIFF'S FEES.

	L.	S.	D.
For summoning a Speciall Court of Pleas, and finding a sufficient dinner for Judges, Jury, and attendance,.....	04	00	00
For serving Writts,.....	00	04	00
For returning the Writts,.....	00	00	09
For Bayle bond,.....	00	02	**
For going by water or land, each mile,.....	00	00	03

A. D. 1694.

	L.	S.	D.
For summoning the Jury and returning the Venire, each action tryed,.....	00	01	06
For calling each action,.....	00	00	04
For serving a Subpena,.....	00	01	03
For serving an Execution on body or goods,.....	00	03	00
For poundage, each pound for any sum of tenn pounds or under, if goods be sold,.....	00	01	00
For poundage, each pound for any sum above tenn pounds, if the goods be sold,.....	00	00	08
For returning and fileing Execution,.....	00	00	06
For serving a Replevin,.....	00	02	06
For dyet for prisoners per diem, allowing bread and water,.....	00	00	06
For a cotype of a Commitment,.....	00	01	03
For waiting upon any person on habeas corpus, each day,.....	00	02	06
For each person presented and prosecuted thereon,.....	00	01	06
For each person indicted,.....	00	02	00
For each person quit by proclamation,.....	00	01	00
For serving a Subpena in Chancery, besides mileage,.....	00	01	06

THE REGISTER'S FEES.

	L.	S.	D.
For registering a Deed of Sale,.....	00	02	06
For registering a Lease for Land,.....	00	02	06
For registering a Grant for Land,.....	00	02	06
For registering a Letter of Attorney,.....	00	02	06
For registering a Landgrave or Casique's patten,.....	02	00	00
For registering any other writing relating to the Register's office, that are not here specified,.....	00	01	03

THE PROVOST MARSHALL'S FEES.

	L.	S.	D.
For serving an Order of Council on shore, in criminal matters, and not otherways,.....	00	02	06
For serving an Order of Council on board of ship,.....	00	05	00
For the commitment of any person,.....	00	01	00
For going and returning per water or per land, per mile,.....	00	00	03
For the seizure of any shipp or vessell,.....	00	10	00
For attendance on board each day,.....	00	03	00
For the summoning a special court,.....	DEFACED.		

THE SECRETARY'S FEES.

For reading a Petition or other writing,.....	DEFACED.
For entering an Order thereupon,.....	do.
For the Cotype of an Order,.....	do.
For fileing a Petition,.....	do.
For a Commitment by Council,.....	do.
For a Release,.....	do.
For a Cotype out of the Records,.....	do.
For recording any paper or writing,.....	do.
For a Warrant for Land,.....	do.
For fileing Surveyor's certificate,.....	do.
For a grant for Land, with the Seale,.....	do.
For a Bond,.....	do.
For a Letter of Administration and Bond,.....	do.

STATUTES AT LARGE

A. D. 1694.

	L.	S.	D.
For a Warrant of Appraisement,.....	00	02	06
For writing the Probat of a Will,.....	00	05	00
For the Entry and Bond of every Shipp and Vessell,.....	00	05	00
For the Dispatch of every Shipp and Vessell,.....	00	05	00
For a Caveate,.....	00	02	06
For writing a Ticket to goe off for them that are able to contract debts,....	00	01	03
For every Underwriting Bond.....	00	02	06
For entering every man's Name upon arrival,.....	00	00	7½
For entering their Religion and Freedome,.....	00	01	03
For a Warrant of Contempt,.....	00	02	06
For a Recognizance,.....	00	02	06
For an Underwriting,.....	00	00	7½
For a Testimoniall with a Seale,.....	00	10	00
For fileing a Bill in Chancerye,.....	00	02	06
For a coppye of, a Bill or Answer in Chancerye, per sheet,.....	00	00	06
For fileing an Answer in Chancerye,.....	00	01	03
For a Subpoena,.....	00	02	06
For an Injunction in Chancerye,.....	00	05	09
For a Decree in Chancerye,.....	00	05	00
For a Warrant and Commitment from the Chancerye,.....	00	03	06
For every Search,.....	00	01	03
For recording of a Will,.....	00	05	00

THE CLERKE OF THE CROWNE AND CLERKE OF THE PEACE FEES.

	L.	S.	D.
For reading a Petition or other writing,.....	00	01	00
For Entering an Order thereupon,.....	00	01	00
For a Coppye of said Order,.....	00	01	00
For writing a Lycence to sell Wine or Punch,.....	00	05	00
For a Bond,.....	00	02	06
For a Commitment,.....	00	01	03
For a Release,.....	00	02	06
For filing a Petition,.....	00	00	7½
For a Warrant of Contempt,.....	00	02	06
For any other Warrant,.....	DEFACED.		
For reading and filing a Recognizance,.....	DO.		
For an Order to keep a Bastard Child,.....	00	02	06
For a Writt of Restitution,.....	00	02	06
For every man Indicted,.....	00	05	00
For an Arraignment, Traverse and Release, and every one Quitt by Proclamation,.....	00	03	06
For entering a Plea,.....	00	03	06
For the record of any causes removed by Certiorary or Habeas Corpus into any other Court and returne,.....	00	05	00

THE SURVEYOR GENERALL, HIS FEES.

	L.	S.	D.
For running out any quantity of Land, by Warrant, per acre,.....	DEFACED.		
For Plot, Record of that Plot, and Certificate, and coppye of that Certificate,.....	00	12	00
For an Attested Coppye of the Plot,.....	00	02	06
For Recording of Land,.....	DEFACED.		
For running out a Town Lot with the Certificate and Recording the same,...	00	10	00
For running out any Lynes between party and party, or any other works whereon the Surveyor is employed as Surveyor, per day,.....	00	10	00

THE CORONER'S FEES.

A. D. 1694.

	L.	S.	D.
For every Inquisition upon view of a Body, if a freeman,.....	01	10	00
For the Jury,.....	00	12	00
For an Inquisition on the Body of a servant,.....	00	10	00
For a paire of Writts,.....	00	04	00
For serving the Writts,.....	00	04	00
For Mileage, per mile,.....	00	00	03
For a Bayle Bond,.....	00	02	06

THE COURT APPOINTED BY THE LORDS PROPRIETORS TO BE HOLDEN
BEFORE THE GOVERNOR AND COUNCILL.

	L.	S.	D.
For Writt of Summons,.....	00	02	06
For filing the Declaration or Plaint,.....	00	01	03
For filing the Plea, Answer, or Demurrer,.....	00	00	74
For an Order or Venire to summons a Jury,.....	00	01	06
For making any Entry or Record upon a heareing or tryall,.....	00	01	00
For Swearing each Evidence,.....	00	00	06
For reading any paper given in evidence to the Court or Jury,.....	00	01	00
For Taxing Costs,.....	00	03	04
For Execution thereupon,.....	00	03	06

THE JUDGE OF THE COURT OF ADMIRALTIE'S FEES.

	L.	S.	D.
For signing and sealing every Warrant to seize a Vessel,.....	00	05	00
For a Warrant to Summon and Seize any person on board or on shore,...	00	02	06
For a Decree upon a Tryall of a Vessel,.....	01	00	00
For a Decree or Judgement against any person,.....	00	05	00
For every Subpcna,.....	00	02	06
For a Venire for a Jury,.....	00	05	00
For signing a Warrant of Commitment,.....		DEFACED.	
For signing every Bill of Sale,.....	01	00	00
For every Certificate certifying the Cause,.....	00	05	00
For a Testimonial to goe beyond Sea,.....	01	00	00

THE CLERKE OF THE COURT OF ADMIRALTIE'S FEES.

	L.	S.	D.
For writing every Warrant in the Admiraltye,.....		DEFACED.	
For a coppye of every Decree of the Court,.....	00	05	00
For the reading every Lybel and Answer, each,.....	00	02	06
For writing each Subpcna,.....	00	01	03
For entering a Decree or Order,.....	00	02	06
For every Deposition,.....	00	01	03
For a Venire for a Jury,.....		DEFACED.	
For filing any paper in the Admiraltye,.....	00	02	06

THE MARSHALL OF THE ADMIRALTIE'S FEES.

	L.	S.	D.
For seizing every Ship,.....	01	00	00
For seizing and bringing any person ashore from any vessel,.....	00	10	00
For every man kept on board for the safe custody of the Vessel and Rig- gin, per dyem,.....	00	02	06
For executing any Venire,.....	00	05	00
For executing any Subpcna if in Charlestowne,.....	00	02	06
For myleage, three pence per myle,.....	00	00	03
For the Sale of Vessel and Goods, and paying the money, each pound,.....	00	01	06

A.D. 1694.

	L.	S.	D.
For every Witness sworn in Court,.....	00	01	03
For every Commitment and Release, each,.....	00	02	06
For the Dinner for the Court and Jury,.....	03	00	00
For the diet of each person per diem,.....	00	00	06
For executing a Decree or Judgement on a Man's Person,.....	00	05	00

THE CLERKE OF ASSEMBLYE'S FEES.

	L.	S.	D.
For reading every Petition presented to the Assembly,.....	00	01	03
For filing the same,.....	00	01	03
For entering an Order upon the same,.....	00	01	03
For a cōpye of said Order,.....	00	01	03
For any Private Act,.....	00	10	00
For Writing an Order to bring any person before the House,.....	00	02	06
For a cōpye of an Act of Assembly,.....	00	02	06

A TABLE OF FEES FOR SPECIALL COURTS HELD BEFORE THE GOVERNOR
AND COUNCILL.

	L.	S.	D.
Granting a Speciall Court; half to be paid by he that craves the Court if he gaines the cause, and the whole if he loose it,.....	05	00	00
For signeing execution,.....	00	05	00
For the Judge's Booke,.....	00	10	00
For signing a Venire,.....	00	05	00
For Taxing Costs,.....	00	06	00

THE CLERKE'S FEES.

	L.	S.	D.
For Writts of Summons,.....	00	05	00
For filing Declaration or Playnt,.....	00	02	06
For filing Plea, Answer or Demurrer,.....	00	01	03
For a Venire,.....	00	03	00
For Swearing each Evidence,.....	00	01	00
For reading any paper given in Evidence to the Court and Jury,.....	00	01	06
For entering Verdict and Judgement,.....	00	02	00
For Execution,.....	00	05	00

THE ATTORNEYE'S FEES.

	L.	S.	D.
For Retaining Fee,.....	00	10	00
For Drawing and Ingrossing a Declaration,.....	00	06	00
For a cōpye thereof,.....	00	02	00
For a Plea or Demurrer,.....	00	10	00
For Taxing Costs, taking out Execution or Fee at ending,.....	00	05	00
For attending to take Depositions of people going off,.....	00	10	00
For drawing cōpye of a Bond or other paper declared upon,.....	00	05	00

*Read three times and ratified in open Assembly, this seventeenth
day of January, 1694-5.*

JOSEPH BLAKE,
PAUL GRIMBALL,
RICHARD CONANT,
WM. SMITH,
WM. HAWETT.

A. D. 1694.

AN ACT FOR THE SETTLING OF PILOTAGE.

No. 116.

(This Act is the same as that already printed page 50, No. 59, except that the following clauses are additional.)

And be it further enacted by the authority aforesaid, that in case any of the Pilots should dye, go off, neglect or refuse to officiate, or upon mis-
 demeanor or any other defect, that it shall be in the power of the Governor ^{Provision in case of death or neglect.} for the time being to name or appoint another in his or their places that shall so go off, refuse or neglect his duty or office as aforesaid, which person so named and appointed by the Governor, shall continue till the next Assembly.

And whereas the aforesaid John Cock, William Bradley and John Buningham have severally given sufficient security to Mr. Jonathan Amory, Capt. Ch. Basden, and Mr. Edmund Bellinger, Commissioners, constantly to keep for each of them respectively, a good and able man to watch upon Sullivand's Island, which man shall observe and follow such orders and instructions as they from time to time shall receive from the said Commissioners, or any two of them, in performance of said watch, and that each of them severally will do or pay his portion, viz: one third part of the charges or work in keeping the publick watch house on Sullivand's ^{Watch on Sullivand's Island.} Island in repaire, *It is hereby enacted*, that the said John Cock, John Buningham and William Bradley, respectively, shall take and receive from all masters or owners of all ships or vessels which wholly belong or hereafter shall belong to the inhabitants of this province, and that every master or owner as aforesaid shall pay to the said John Cock, William Bradley, and John Buningham, respectively, halfe so much as any master or owner of any other ships or vessels is before by this Act obliged and bound to pay, any thing in this Act contained to the contrary notwithstanding, to that respective pilot which performs the duty and office of pilot as aforesaid. And that the said John Cock, William Bradley and John Buningham shall each of them severally have the use and benefit of the publick watch house upon Sullivand's Island, so long as they perform and execute the office of Pilot, according to the true meaning of this Act, without charge, the repairing thereof as aforesaid excepted. And be it further enacted, that this Act and every thing therein contained do continue in force two years and no longer.

*Read three times, and ratified in open Assembly,
 the 17th day of January, 1694-5.*

JOSEPH BLAKE,
 PAUL GRIMBALL,
 STEPHEN BULL,
 RICHARD CONANT,
 WM. SMITH,
 WM. HAWETT,

NOTE.—The above clauses are not very intelligible, but they have been duly compared with the original.—T. C.

A. D. 1694.

No. 117.

AN ACT TO REVIVE THE SEVERAL ACTS WITHIN MENTIONED.

BE IT ENACTED by his Excellency, William Earl of Craven, Palatine, and the rest of the Lords and absolute Proprietors of this Province, by and with the aid and consent of the rest of the members of the General Assembly, met at Charlestowne for the South-west part of this Province, That an Act entituled An Act inhibiting the trading with Servants and Slaves, ratified Oct. 15th, 1692—an Act entituled An Act for the Tryall of Small and Mean Causes, ratified Oct. 15, 1692—an Act entituled An Act for regulating the Militia, ratified the 12th of May, 1693—and an Act entituled An Act to prevent Mariners and Seamen running in debt, ratified the 15th October, 1692,—be and hereby are revived; to be in force and continued for and during the full term and time of six months after and from the ratification of this Act; any limitation or other thing in the said Acts to the contrary contained notwithstanding.

II. And that an Act entituled An Act for settling and continuing a Watch in Charlestowne and to clear the same from underwood, ratified the 20th of May, 1693, be and is hereby revived, enacted to be in force and continue for and during the full time of six months after and from the ratification hereof: And that William Hawett, Esq. Charles Basden and Mr. William Popell have all the power to put in execution the said Act, as Robert Gibbes, Esq. Capt. Charles Basden and Capt. Henry * * * * had by virtue of the late Act.

III. *And be it further enacted* That an Act entituled An Act for the * * * * of Vessells, be and is hereby continued in full force for the term of six months after the ratification of this Act, any limitation or other thing to the contrary therein contained notwithstanding.

IV. *And be it further enacted,* That noe Merchant or other person, strangers, shall be oblidged to keep watch in Charlestowne, or to pay money instead thereof, before or sooner than till they have been two months arrived into any * * * * of this part of this province; any thing in an Act entituled An Act for settling and continueing a Watch in Charlestowne, to the contrary contained notwithstanding.

*Read three times and ratified in open Assembly,
this 17th day of January, 1694-5.*

JOSEPH BLAKE,
PAUL GRIMBALL,
STEPHEN BULL,
RICHARD CONANT;
WM. SMITH,
WM. HAWETT.

No. 118. AN ACT TO MAKE CURRANT, ESTABLISH AND SETTLE THE WEIGHT OF
FOREAIGNE COYNE.—(See Act No. 77, p. 72.)

Preamble. FORASMUCH as great quantityes of light Spanish moneys and for-
raigne coyne is and may be brought into this part of this province,
which does and may hereafter much more prejudice and damnifye the

inhabitants of the same, if due care be not taken and provision made to prevent the same. A. D. 1694.

I. *Be it therefore enacted* by his Excellency William Earl of Craven, Palatine, and the rest of the Lords and absolute Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly now met at Charlestowne, for the south west part of this Province, and it is enacted by the authority aforesaid, that pieces of eight of the coyne of Mexico Pillar * * * * Peru Lion dollar and other coyne containing full thirteen penny weight troy and upwards, shall be currante money and pass in this part of this province at five shillings the piece of eight, and all halfe pieces of eight of the coyne aforesaid containing full six penny weight and one halfe troy and upwards shall be currante money and pass in this parte of this province at two shillings and sixpence, and all quarter pieces of eight coyne aforesaid shall be currante money and pass in this parte of this province at fiftene pence. Value of Spanish Coin.

II. *And it is further enacted* by the authority aforesaid, that all pieces of eight of the coyne aforesaid, containing full ten pennyweight troy to thirteene pennyweight, shall be currante money in this parte of this province at foure shillings, and all halfe pieces of eight of the coyne aforesaid containing full five pennyweight to six pennyweight and a halfe, shall be currant money and pass in this parte of this province at two shillings.

III. *And be it further enacted* by the authority aforesaid, that pieces of gold of forraigne coyne, containing full two pennyweight troy and upwards, shall be currant money and pass at tenn shillings, and all pieces of gold of forraigne coyne containing full foure pennyweight troy and upwards shall be currant money and pass for twenty shillings. Foreign gold coin.

And whereas, no due and condigne punishment is at this time provided for such evill disposed persons as shall clipp, waste, file, grind, or otherwise diminish, deface or counterfeit any Spanish or forraigne coyne of gold or silver, permitted to be currant money and to pass in this part of this province, by reason whereof divers evill disposed persons are imboldened and encouraged to act and do the same, Offences against the Coin.

IV. *Be it enacted* by the authority aforesaid, that if any person or persons after the ratification of this Act shall clipp, waste, file, grinde or otherwise diminish, deface or counterfeit any forraigne coyne aforesaid, that is and shall be currant money within this part of this province, that such person or persons soe offending shall for the first offence be guilty of felony, and for the second offence shall suffer the paines of death without benefit of clergy. Punishment.

V. *And be it further enacted*, that this Act and every thing herein contained shall continue in force for one year and no longer.

*Read three times and ratified in open Assembly,
this 17th day of January, 1694—5.*

JOSEPH BLAKE,
PAUL GRIMBALL,
STE. BULL,
RICH. CONANT,
WILL. SMITH,
WILL. HAWETT.

A. D. 1695.

No. 119. AN ACT to provide Indifferent Jurymen in all Causes civil and criminal. [Ratified Jan. 17, 1694 -5. See Act No. 89. Repealed. Original Act not now to be found.]

No. 120. AN ACT for the Ascertaining the Guage of Barrells, and for Avoiding Deceits in Selling and Buying Beef and Pork. [Ratified January 17, 1694--5. Continued and Explained by Act No. 148. Cited and additions made to it, by the declaratory Act, No. 156, sect. 3, 4. Obsolete and expired. The original Act not now to be found.]

No. 121. AN Additional ACT for the better Collecting and Receiving the Duties and Rates upon Liquors, Tobacco and Provisions imported into this Part of this Province. [Ratified July 16, 1695. Explained by Act No. 148. Repealed by Sect. 14, of No. 175. The original Act not now to be found.]

No. 122. AN ACT declaratory concerning Indifferent Jurymen in all Causes civil and criminal. [Ratified July 16, 1695. See Acts No. 89 and 119, ante. Repealed by par. 2, of the declaratory Act, No. 156. The original Act not now to be found.]

No. 123. AN ACT to Revive the several Acts within mentioned. [Ratified July 16, 1695. The Acts No. 81, 82, 88, 91, 93, 98, 101, continued for 12 months. Act No. 97 continued for 8 months. The original Act not now to be found.]

No. 124. AN ACT TO ASCERTAIN THE PRICES OF LAND, THE FORMS OF CONVEYANCES, AND THE MANNER OF RECOVERING OF RENTS FOR LANDS, AND THE PRICES OF THE SEVERAL COMMODITIES THE SAME MAY BE PAID IN. (*Repealed by § 22, of the Quit Rent Act, of Aug. 20, 1731.*)

Preamble. WHEREAS no positive law or certain way hath hitherto been made and appointed for recovering of Rents for Land, nor any certain rates or prices put upon money or commodities in which the same are payable, the want of which hereafter may turn to the great damage of the persons from whom rent shall become due; for the prevention whereof,

I. *Be it enacted* by his Excellency, William Earl of Craven, Pallatine, and the rest of the true and absolute Lords and Proprietors of the Province of Carolina, by and with the advice and consent of the rest of the members of the General Assembly now met at Charlestowne for the South west part of this Province, That all rents which hereafter shall become due to the right honourable the true and absolute Lords and Proprietors

of this Province of Carolina, for lands already granted and sold, whether the same be by deed pole or deed indented; and all Rents which shall become due to the Lords Proprietors for lands to be granted and sold to any person or persons in the following words and form of grant, viz: — I, A. B. by virtue, &c. doe give and grant unto A. B. a Plantation containing acres of land, English measure, now in the possession of the said A. B., situate and lying in County, and butting and bounding as appears by a platt thereof hereunto annexed, *to have and to hold* the said plantation to the said A. B. his heirs and assigns for ever in free and common socage, with priviledge of hawking, hunting, fishing and fowling within the bounds of the same, with all the woods and trees and what else is thereon standing or therein growing and being, or thereunto by any manner or means whatsoever belonging or appertaining, *Except* all royal mines and quarrys of gemms and precious stones, and one sixth part of the oare of all base mines, after the same is digged and washed, or one tenth part of the same when and after refined. He or they *yielding or paying* therefore unto the true and absolute Lords and Proprietors, their heirs and assigns, or to their receiver, by them or the major part of them appointed or authorized, on every first day of December which shall be after the first day of December in the yeare of our Lord one thousand, one penny currant money of this province for every acre, or the value thereof in such commoditys and at such prices and in such places as shall be ascertained and appoynted by the directions of an Act entituled An Act to ascertain the Prices of Land, the forme of Conveyances and the manner of recovering rent for lands, and the prices of the severall Commodities the same may be paid in, in lieu of and for all manner of services whatsoever due to the Lords Proprietors as Lords of the Fee." Given under the great seale appoynted for the purpose, and dated the day of shall be paid to the Lords Proprietors in currant money of this part of the province, or in Indigo, Cotton, Silke, Rice, Beefe or Porke in barrells or halfe barrells on which shall be put the packer's marke, or in English Pease, which commodities shall be appraised by six men upon their oaths, three whereof shall be nominated by the Governor for the time being, with the advice and consent of his Councill, the other three by the Commons now assembled, which three shall be and continue appraisers till by the Commons assembled others shall be appoynted in their stead; which six persons soe nominated shall meete at Charlestowne every second Tuesday in November, and then and there by a majority of voats shall agree to and put a certaine price upon the severall commodities in which rents may be paid, and shall appoynt the place of payment in each county; att which price soe ascertained the Lords' receiver shall take and receive all money and commodities that shall be tendered to him at the place where the same ought to be paid for rents due and reserved for that yeare. And if it soe happen that any one of the Appraisers now nominated or hereafter to be nominated shall dye or depart out of this part of this province before the next second Tuesday in November, then (the Commons assembled haveing not appoynted another in his stead) the two surviving or remaining Appraisers shall nominate and associate to themselves a third, which person soe nominated shall be and is hereby qualified in every respect as if he had been nominated by the Commons assembled.

A. D. 1695.

Form of Deed.

Value of such commodities as may be offered in payment, how to be ascertained.

Appraisers to be appointed.

II. And all grants for land to be sold and for which twelve pence the hundred acres in currant money acknowledgement shall be received, shall be in forme following, viz: I, A. B. &c. for and in consideration of the full summe of currant money of this part of the Province of Carolina

Form of Grant.

A. D. 1695.

(the receipt whereof doe hereby acknowledge) doe give and grant unto A. B. a Plantation containing acres of land, English measure, now in the possession of the said A. B. scituate and lying in County, and butting and bounding as appears by a platt thereof hereunto annexed, *To have and to hold* the said Plantation to the said A. B. his heires and assigns for ever in free and common socage, with priviledge of hawking, hunting, fishing and fowling within the bounds of the same, with all woods and trees and what else is thereon standing or growing, or therein being, or thereunto by any manner of wayes or means whatsoever belonging or appertayning, *Except* all royall mines and quarrys of gems and precious stones, and one sixth part of the oare of all base mines after the same is digged and washed, or one tenth part of the same when and after refined, he or they yielding and paying therefore unto the true and absolute Lords and Proprietors, their heires and assigns, or to their receiver, by them or the major part of them appoynted and authorized, on every first day of December which shall be after the first day of December in the yeare of our Lord the full summe of in currant money of this part of the province of Carolina, in lieu of and for all manner of services due to the Lords Proprietors as Lords of the Fee, at such place as shall be appoynted by the direction of an Act entituled An Act to ascertain the Prices of Land, the forme of Conveyance, and the manner of recovering of Rents for Lands, and the prices of the severall commodities the same may be paid in. Given under the great seale appoynted for the purpose at the day of and signed

Distress
allowed for
rent due.

III. *And be it further enacted* by the authority aforesaid, that if any rents which shall hereafter become due and reserved to the Lords Proprietors by any of the deeds before mentioned, be unpaid by the space of thirty days after the same ought to have been paid, the Lords Proprietors by their officers thereunto appoynted, shall make reasonable distress upon any of the goods and chattels of the owners of lands upon the lands for which the same was due and unpaid as aforesaid; and the goods and chattels soe distrained, shall take and carry away, or upon the premises impound and keep five days, and if the owner thereof shall not within that time pay the rents due for which the same was distrayned, with the reasonable charges of distrayning, driving, keeping, and carrying away, then the officer distrayning shall and may, with a constable living nearest to the place where such distress shall be made, (who is hereby required to be assisting therein) cause the goods and chattels soe distrayned to be appraised by two sworn appraisers, freeholders of the neighborhood, (whom such constable is impowered to swear to appraise the same according to the best of their understanding) and after such appraysement, shall and may lawfully sell the goods and chattels so distrayned, and the money thereby rising, shall keepe for the use of the Lords Proprietors towards satisfaction of the rent, for which the sayde goods and chattels were distrayned, and of the charges of such distress, appraysement and sale, leaving the overplus, if any, in the hands of the sayde constable for the owners use; and if no distress by the space of the sixty days can be made upon the lands for which rent shall become due, then it shall and may be lawful for the Lords receiver, in the name and on the behalf of the Lords Proprietors, to bring a personal action in the Court of Pleas against the person whose rents unpaid are forty shillings or upwards, and for which no distress can be made as aforesaid; and for all rents under forty shillings to recover as in an Act intituled An Act for the tryal of small and mean causes, for debts under forty shillings is appoynted.

IV. *And be it further enacted*, that all lands, plantations and towne lots, for which a quitt rent of one penny a year is or shall be reserved, granted, or to be granted as aforesaid, upon which noe distress can be made, and against whose owners person living without this government noe personall action can be brought, nor any other recovery made by the space of seaven years, and all towne lots, lands and plantations for which a quitt rent of twelve pence for one hundred acres is reserved, and for which noe recovery can be made as aforesaid by the space of twenty one years, shall escheat and revert, and are hereby escheated and reverted to the Lords Proprietors; and all deeds for the conveyance, and grants, and sales for the same, are hereby declared null and void as if the same had never been made.

A. D. 1695.

Land owners
living out of the
Province.

V. *And be it further enacted* by the authority aforesaid, That all grants and deeds indented for the sale and conveyance of lands lying within this part of this Province, which at any time heretofore have been made by the Pallatine or his Deputy, and any three more of the Lords Proprietors or their Deputyes, or by any person or persons by the Pallatine and any three or more of the Lords Proprietors, commissioned or impowered to sell and grant lands, are, and are hereby declared to be and forever hereafter shall be taken and held to be good, strong, substantiall, stable, firme and lawfull, according to the true intent and meaning thereof, any misnomer, omission of the names of any of the Lords Proprietors, any want of any significant and necessary words in law for conveying of lands, any omission, commision or mistake whatsoever in the said grants done, omitted or committed by any or all of the Trustees commissioned by the Lords Proprietors for the selling of lands notwithstanding.

Proceedings of
authorized
agents to be
valid.

VI. *And be it further enacted*, that distress shall not be made upon the goods and chattels of any person upon any plantation butt such as belong to the owner of the lands upon which distress is made, or which doe belong to the tennant or tennants thereupon living or residing, or to any person occupying and enjoying the fruits and increase thereof, and that noe person who shall buy any part or parcel of any plantation of any person to whom the Lords Proprietors have before granted the same, shall be oblidged or lyable to pay rent for more acres of land than he had bona fide bought as aforesaid.

The goods of
the owners
only, liable to
distress.

VII. *And be it further enacted*, that in case any distress and sale as aforesaid shall be made by vertue or coullor of this present Act, for rent pretended to be in arrear and due, when in truth no rent is arrear or due to the person or persons distrayning, or him or them in whose name or names or right, such distress shall be taken as aforesaid, that then the owner of such goods or chattels, distrayned and sold as aforesaid, his executors or administrators, shall and may by action of tresspass, or upon the case, to be brought against the person or persons soe distrayning, any or either of them, his or their executors or administrators, recover double the vulture of the goods or chattels soe distrayned and sold, with full costs of suite.

In case no rent
is due.

VIII. *And be it further enacted*, that every person which heretofore hath or hereafter shall buy or any otherwise hold, any parcel of lands either mediately or immediately, from any person or persons to whom the Lords Proprietors have formerly granted or sold, or shall hereafter grant and sell the same, shall some time before the first rent day after the ratification of this Act, or some time before the first rent day shall happen after the purchase or tennour thereof, register his deed of sale and conveyance, or for

Deeds of sale
to be
registered.

A. D. 1695.

want thereof, shall forfeit and pay to the Lords Receiver or Officer soe much as the said Receiver or Officer may be damaged, with costs of suite by making distresse for rent where none was due, to be recovered by the same way and process as the damages against the Receiver in case of distresse for rent where none was due before hath been recovered. *Provided alwayes and it is hereby enacted*, that any person which hereafter shall buy any lands as aforesaid, within tenn days before any rent day, may register his deed of sale or tennour at any time within thirty days after the rent day, which shall be taken to be done effectually according to the intent of this Act, any thing herein to the contrary notwithstanding.

Forms of deed
to remain
unchanged.

IX. *And be it further enacted*, that the forme of grant for land for which one penny per acre is reserved for quitt rent and which before in this Act is sett downe, shall be the only and unalterable forme of grants hereafter to be granted and conveyed to every person which in any part of this part of this Province shall require the same, for and during the full terme and time of fiftene years after the ratification of this Act; and that the forme of grant for lands for which twelve pence for one hundred acres or for any greater or lesser quantity of lands after that rate is reserved as quitt rent, and which before in this Act is sett downe, shall be the only and unalterable forme of grants for lands hereafter to be sold to every person, which in any part of this part of this Province shall require the same, for and during the full terme and time of six yeares after the ratification of this Act; and that after the expiration of the six yeares aforesaid, the same forme of grants shall not be altered till after publication of the intention of the Lords Proprietors to alter the same, hath been made in Charlestown att least one whole yeare before the alteration thereof; nor shall the forme of grants for lands for which one penny per acre is reserved as a quitt rent, be altered till publication thereof has been made at least one whole yeare before the alteration thereof, and after the expiration of the fifteen yeares aforesaid.

Grants to be
given without
delay.

X. *And we* the representatives of the people of this part of this Province, now assembled, highly sensible how much the aforesaid formes of grants for lands will conduce to encourage the peopleing of this Collony, doe humbly pray and beseech the true and absolute Lords and Proprietors of this Province that it may be enacted, *And it is enacted* by the authority aforesaid, that the aforesaid formes of grants for lands shall not be denied or delayed to be given to any person which within any part of this part of this Province shall require the same, at any time within the respective times before in this Act limited and appoynted for granting the same, he or they first paying what at the tyme shall be usuall for the same.

Writings how
to be signed.

XI. *And be it further enacted*, that all grants and sales of land, all public instruments in writing, all private contracts and agreements with any person or persons, all acts and orders of Assembly, all rules and instructions of Government, and all other papers relating thereto which shall be made and signed and sealed by the Pallatine and three more of the Lords Proprietors, or by any five of the Lords Proprietors, and all acts and matters done by vertue thereof, shall be taken and held to be as good and substantial in law as if the same had been agreed and consented to and signed and sealed by all the Lords Proprietors themselves.

Proviso in case
of absence of
the Proprietors
Agents.

XII. And that no person may be disappointed or damaged for want of a grant for lands, *Be it enacted* by the authority aforesaid, that if at any time within the time limited for the granting of land in the manner and forme aforesaid, it shall happen that noe person shall be commissioned and impowered to sell, grant or convey lands as aforesaid in this part of this

Province, then in such case the Governor for the time being, and three more of the Lords Proprietors Deputyes shall have power, and are hereby empowered to sell, grant and convey lands in the manner and formes aforesaid, and not otherwise, untill another person shall be commissioned from the Lords Proprietors to sell, grant and convey as before is appoynted.

A. D. 1695.

XIII. *And for the assistance and better enabling of new commers and servants whose times of servitude are expired, to settle themselves, and to encourage their stay here, the Commons doe pray your honours that it may be enacted, and Be it enacted* by the authority aforesaid, that no rent or acknowledgement in the beforementioned grants reserved, shall be demanded, required or paid, or be reputed to become due to the right honorable the Lords Proprietors, for the space and terme of five whole yeares from and after the first day of December next ensuing the running out, possession or date of the said grants, any thing in said grants contained to the contrary in any wise notwithstanding.

Inducement for new settlers.

XIV. *And be it further enacted* by the authority aforesaid, that noe person or persons whatsoever who hath lands in this part of this Province, and from whome rent was and is due for the same, shall be obliged to pay for the purchase of such lands more than twenty pounds current money for a thousand acres, reserving twelve pence rent for each hundred, for and during the time limitted in this Act, and so proportionably for a greater or lesser quantity; and that all person or persons, for and during the limited time aforesaid, shall buy and purchase lands for twenty pounds a thousand acres, in pieces of eight weighing not less than sixteene penny weight, or twenty five pounds current money, reserving twelve pence a hundred acres rent, and soe proportionably for a greater or lesser quantity.

Prices of land and rents fixed.

XV. *And for the better explanation of the meaning and confirmation of an Act of Assembly, entituled an Act for the better settlement of this Province, Be it enacted*, that the said Act shall not be extended or have relation to any lands or plantations, but such as had laine waste and for which noe rents had been paid, sometime before the ratification thereof; and the said Act shall be allowed, held and taken to be good, lawfull and in force, and such lands before mentioned shall escheate and revert to the true and absolute Lords and Proprietors, and be deemed to all intents and purposes as lands untaken up.

To relate to vacant lands only.

XVI. *And it is further enacted* by the authority aforesaid, that noe Act of Generall Assembly made and ratified, or that shall hereafter be made and ratified by the Lords Proprietors Deputyes in the Generall Assembly, shall be repealed, annulled or revoked but by and with the consent of the Generall Assembly, except all such Acts of Assembly which may any wayes have relation to the dignity and royal prerogatives of the King and Crowne of England, or which may any wayes have relation to the lands, rents and revenues of the true and absolute Lords and Proprietors of the Province of Carolina, or of their prerogatives granted to them in their Royall Charter, which saide Acts shall not continue in force but until the next bieniall Assembly, unless in the meane time they be ratified under the hands and seales of the Pallatine and three or more of the Lords Proprietors, or under the hands and seales of any five of them, except allways, *And it is hereby enacted*, that this Act, and an Act for the remission of parte of arrears of rent, and to ascertain the payment of the remainder, are hereby made and declared to be unrepealable and irrevocable by any power or persons

A. D. 1695. *whatsoever, without the consent of the Generall Assembly, any thing in this clause contained to the contrary notwithstanding.*

Read three times and ratified in open Assembly, this sixteenth day of March, 1694-5.

JOHN ARCHDALE,
JOSEPH BLAKE,
JOSEPH MORTON,
THOMAS CARY,
STEPHEN BULL,
JOHN BERESFORD,
JAMES MOORE,
WM. HAWETT.

Repealed by sec. 22 of the Quitt Rent Act, of twentieth of August, 1731.

No. 125. **AN ACT FOR REMISSION OF PART OF ARREARS OF RENT, AND TO ASCERTAIN THE PAYMENT OF THE REMAINDER.**

Preamble.

WHEREAS, the right honourable, the true and absolute Lords and Proprietors of this Province, out of their paternal care of us the inhabitants of this their Colony, have been graciously pleased to impower and commissionate the right honourable John Archdale, Esq. General, Admiral and Governor of this Province, to do and act such things, with the advice and consent of three or more of their deputies, and by and with the consent of the delegates or representatives of the people, as to him and them shall seem most to conduce to the peace and welfare of the present inhabitants, and to encourage others to inhabit and plant here, the only means to continue and augment the prosperity of this Colony; We therefore the representatives of the people of this part of this Province, now met at Charlestowne, do in most humble manner pray and beseech the right honourable John Archdale, Esq. Governor, and the honourable the Lords Proprietors Deputies, because of the misunderstanding betwixt the Lords and the people of this their Colony, which have happened by reason of the great distance between the Lords and us; we are considerably in arrear of rent, and are now under the necessity of levying great sums of money for the fortification of Charlestowne, the only Port and place of strength in this Colony, which we have done; and because of the low estate of us the inhabitants; and because we have as an argument for our acknowledgement of the arrears of rent to be due to the Lords Proprietors enacted, that all rents and acknowledgements which hereafter shall become due to the Lords, shall and may be surely and easily levied, collected and paid; That it may be enacted, *And it is enacted* by his Excellency William Earl of Craven, Pallatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the Members of the General Assembly, now met at Charlestowne for the South West part of this Province, that three years arrear of rent, shall be and is hereby

Enactment.

Three years of rent remitted to persons holding land by grant. *remitted and forgiven, to all persons which hold land by grant or patent from the Lords Proprietors or from any person by them impowered to grant or sell land, and to all persons which derive a title or claim to any*

land from any person to whom land was granted as aforesaid : And that four years rent may be and is hereby remitted and forgiven to all persons which have held land by a survey of the same, and without patents or grants : And that four years rent shall be and is hereby remitted and forgiven to all persons which have possessed land without survey, patent or grant ; except the rents of all Baronies, and of such land that shall be any way possessed by such person or persons to whom the Lords Proprietors do owe any monies, by salary or otherwise ; in such cases it shall and may be lawful for the Lords to make deduction of all arrears due to them, by way of discount, and that if the possessor of any Barony refuse to pay the whole arrears that is due to the Lords, that then it may be lawful to distrain on any part of the said Barony for the full arrears due for the same, as is directed by an Act, entitled, An Act to ascertain the prices of land, the form of conveyances, and the manner of recovering of rents for lands, and the prices of the several commodities the same may be paid in.

A. D. 1695.

Four years rent remitted to those holding by survey.

Also those holding without survey patent or grant.

Exception.

II. *Provided always*, and it is hereby meant, that whereas some persons, inhabitants of this province, that have no grants, may not be indebted six years of arrears to the Lords Proprietors, Be it enacted, and it is the true intent and meaning of this Act, that the two third parts of what he or they are indebted as aforesaid, to be accounted from the next rent day to come, two years after the survey or sitting down thereon, shall be and is hereby remitted, and no more, any thing in this Act contained to the contrary notwithstanding.

Proviso.

III. *And be it further enacted*, that noe person which hath possessed and manured land which hath not been surveyed as aforesaid, shall be chargeable for less than the rent of fifty acres, and no more, as aforesaid.

No person to be charged with less than the rent of fifty acres.

IV. *And be it further enacted*, That every person which after the remission and abatement of the rents as is before provided, shall be in arrears of rents to the Lords Proprietors, shall pay to the Lords Receiver, one moiety of all his arrears upon or before the first day of December next, and the other moiety upon or before the first day of December, which shall be in the year of our Lord God, one thousand six hundred ninety and seven, in current money of this Province, or in indigo, silk, rice, cotton, beef, pork in barrels or half barrels, with the packers marke thereupon, or in English pease, at such rates, and at such places as rents which hereafter shall become due by an Act, entitled, "An Act to ascertain the prices of land, the forme of conveyances, and the manner of recovering of rents for lands, and the prices of the several commodities the same may be paid in," are provided and ordained to be paid.

Every person that after the remission and abatement of rents shall be in arrears shall pay the same.

V. And whereas the right honorable John Archdale, Esq. Governour, upon the humble petition and address of the Commons, for the remission of the whole arrears of rent, did amongst other things earnestly press to their consideration the discharge of the Lords Proprietors debts, the only thing mentioned and not provided for ; we the Commons therefore, in consideration thereof, with hearts full of gratitude to their lordships and your honour, and for the more speedy and easy recovery of the residue of the rent unremitted, do pray that it may be enacted, *And be it enacted*, that it shall and may be lawful for the Lords Receiver to bring a personal action in the Court of Pleas against any person who shall neglect or refuse to pay their arrears of rent as aforesaid, which shall exceed forty shillings at either of the times aforesaid, in which action no essoign, protection or wager of law shall be allowed; and if the arrears so unpaid as aforesaid, are forty shillings or under,

In case of failure how to be recovered.

A. D. 1695. he shall recover the same as by an Act, entitled "An Act for the try-
all of small and mean causes," is appointed.

In case the
owners of lands
live out of the
Province, the
Lords Receiver
may distrain on
their goods.

VI. And whereas several persons living within this Government, have taken up and possessed Land for which their attorneys or overseers cannot by law be forced to pay the arrears of rents, nor any recovery made by a personal action, *Be it enacted*, that in such case it shall and may be lawful for the Lords' Receiver to make distress upon the goods and chattels of the owners of such lands, and the goods and chattels so distrained, shall dispose of as goods and chattels distrained for rent which hereafter shall become due by an Act entitled "An Act to ascertain the prices of Land, the form of conveyances, and the manner of recovering rents for lands, and the prices of the several commodities the same may be paid in," are appointed to be disposed of.

The owners to
declare on oath
whether they
hold by grant
or survey or
possession only

VII. And to avoid all frauds in the payment of arrears of rent, which by this Act are to be paid, and the discovery of lands held by grant or patent, from lands held by survey without grant or patent, and the discovery of both the aforesaid tenures from lands held by possession only, will be the most indifferent, easy and certain way, *Be it enacted*, that every person in arrears of rent, shall make oath (if by the Governor or Lords' Receiver he shall be required to do so) by which of the aforesaid tenures he holdeth his lands, and if by grant or survey, how much land he holdeth; and every person which shall refuse to make oath as aforesaid, shall forfeit double the value of the rents, which shall be recovered against him, as is before provided, which forfeiture shall be recovered in the Court of Pleas by the Lords' Receiver, one moiety thereof for the said Receiver, the other moiety for the Lords Proprietors.

No arrears to
be paid for
lands first
surveyed and
then purchased
before the
arrival of
Governor
Archdale.

VIII. *And be it further enacted* by the authority aforesaid, That no person or persons shall be charged or liable to pay rent for any tract of land which hath been surveyed, and afterwards the same or any part thereof hath been purchased of and from the Lords Proprietors, at any time before the arrival of the right honourable John Archdale, Esq. Governour; and also any person whatsoever that hath or doth possess, hold and enjoy any land by survey or otherwise, without grant or patent, and shall throw up, disclaim and refuse to possess all and every part of the said lands as aforesaid, is hereby deemed and adjudged no possessor or holder, or enjoyer of the said lands, but shall revert to the Lords Proprietors, to be disposed of as land untaken up, neither shall pay any rent for the same, any thing in this Act to the contrary notwithstanding.

Nor for lands
possessed
without patent
or grant.

*Read three times, and ratified in open Assembly,
this sixteenth day of March, 1695-6.*

JOHN ARCHDALE,
JOSEPH BLAKE,
JOSEPH MORTON,
STEPHEN BULL,
THOMAS CARY,
JAMES MOORE,
JOHN BERESFORD,
WILLIAM HAWETT.

A. D. 1895.

AN ACT TO PREVENT THE STEALING AND TAKING AWAY OF BOATS AND CANOES. No. 126.

WHEREAS divers persons heretofore have and now doe use to take away and let loose other men's boats and canoes, and to steal grapnells, boat ropes, sayles and oars, to the great loss and damage of the owners, for the prevention whereof, Preamble

Be it enacted by his Excellency, William Earl of Craven, Palatine, and the rest of the true and absolute Lords and Proprietors of Carolina, by and with the advice and consent of the rest of the members of the General Assembly now met at Charlestowne for the south west part of this province, *And it is enacted* by the authority of the same, That any person or persons which at any time after the ratification of this Act, shall steal, take away, or let loose any boat, perriaguer or canoe, or steal or take away any grappling, painter, rope, sail or oar from any landing or place whatsoever, where the owners or persons in whose service or employ they were last in, had made fast or laid the same (except all boats or canoes as are let loose from another boat, canoe or vessel) shall be liable to corporal punishment, or to such fine or fines as the justices at the sessions shall in their discretion think fit, if the matter of fact be felony or larceny, and make good to the person or persons injured all damages they shall sustain; and in case the matter of fact be a trespass only, the person or persons committing such offence, shall make good to the person injured all damages that may accrue thereby, and moreover forfeit and pay for every time he or they shall be found guilty thereof, the sum of £4, one moiety thereof to be paid to the public receiver for the public use, the other moiety to him or them that will sue and prosecute for the same in any court of record in this province, besides his charges therein expended. Any person who shall steal or let loose any boat, &c. how to be punished.

II. When and as often as damages demanded exceed not the sum of 40s. any one or more justice or justices of the peace shall have power and are hereby empowered to hear, examine, try and determine the same, as by an Act, entitled, an Act for the Tryal of Small and Mean Causes, is directed. Damages not exceeding 40s. how to be recovered.

III. If any slave or Indian at any time after the ratification of this Act, shall take away or let loose any boat or canoe, or steal any grappling, painter, rope, sail or oars from any landing or place whatsoever, where the owners or persons in whose service and employment they were last in, had made fast or laid the same, shall for the first offence he or they shall be convicted of, receive on his or their bare backs 39 lashes, and for the second offence, shall forfeit and have cut off from his or their heads one ear. Any slave or Indian offending how to be punished.

IV. Upon complaint made to any justice or justices of the peace, of any offence committed by any negro or Indian as aforesaid, the said justice or justices shall issue his or their warrants for apprehending the offenders, and for all persons to come before him or them that can give evidence, and if upon examination it appears that the apprehended are guilty, the said justice or justices shall give sentence that the offender shall receive such punishment as is by this Act directed, and forthwith by his or their warrant cause immediate execution to be done by any constable or his deputy, in such manner as he or they shall think fit. The same to be tried before any justice of the peace.

V. If any white servant offend contrary to this Act, he shall be liable to the same penalties and punishments as any white free person, and if offending. White servants

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the master or mistress, or in case of his or their refusal some other person do not in twenty days after he is committed, pay the forfeiture and damages as aforesaid, in default thereof the said white servant or servants shall be awarded by any two justices of the peace, to make satisfaction in service (not exceeding four years) after the complement of his service be fulfilled to his or their master, to such person or persons as are injured, and to the informer or prosecutor.

*Read three times, and ratified, in open Assembly,
this sixteenth day of March, 1695-6.*

JOHN ARCHDALE,
JOSEPH BLAKE,
JOSEPH MORTON,
STEPHEN BULL,
THOMAS CARY,
JAMES MOORE,
JOHN BERESFORD,
WILLIAM HAWETT.

No. 127.

AN ACT FOR THE DESTROYING OF UNMARKED CATTLE.
(See Act No. 79.)

Preamble.

WHEREAS the great number of trees blown down by the violence of the late hurricaine hath made the woods difficult to be travelled and in some places almost unpassable, whereby divers persons inhabitants of this part of this province have been utterly prevented from a due and orderly bringing their cattle to their respective pennis and marking them as they were accustomed, by which means the number of unmarked cattle is increased, And whereas divers evil minded persons without any just title, have taken upon them to kill and destroy great numbers of the said cattle, to the great loss and damage of several of the inhabitants as aforesaid.

Certificate may
be obtained to
kill unmarked
cattle, and
on what
conditions.

I. *Be it therefore enacted* by his Excellency William Earl of Craven, Pallatine, and the rest of the true and absolute Lords Proprietors of this Province, by and with the advice and consent of the rest of the members of the Generall Assembly, now met at Charlestowne for the south west part of this Province, That from and after the ratification hereof, it shall and may be lawful for any person whatsoever, to kill or cause to be killed any unmarked cattle, which first doth (and not otherwise) make oath before some Justice of the Peace (dwelling next where such cattle are) that he hath for some considerable time past had some marked cattle, the increase of which he hath not for some yeares marked, in that part of the country in which he is to be permitted to kill of his owne or to which by letters of administration, power of attorney or otherwise he is justly intitled, on oath to that intent; and the said Justice of the Peace is hereby empowered to administer and to the person soe taking the same to grant certificate under his hand and seale, for three months, to kill such cattle in such place accordingly, and of every such certificate every Justice of the Peace granting the same is hereby required to keep a register. *Provided always*, and it is the true intent and meaning of this Act, that such person or persons who shall obtaine such certificate, shall one week before his hunting for such unmarked cattle, acquaint at least five of his neighbours,

A.D. 1695.

masters of families, of the day of his hunting, to the end that if any such master or masters of families will goe or send any person or persons with them to hunt (having such certificate) or to observe that noe injury be done to any marked cattle, may soe doe. And that noe person who have an interest in such unmarked cattle doe sell his right and title in any such unmarked cattle to any other person or persons whatsoever. And that noe person to whom such certificate shall be granted shall imploy any slave or slaves to kill such cattle as aforesaid, unless he goe himselfe or send one or more white people, capable of making oath of their proceeding, along with them. And every such person or those he shall imploy to goe with his slaves as aforesaid, are hereby required to bring the certificate and both the eares of every beast so killed, within tenn days at farthest after the killing of the same, unto the next Justice of the Peace, before whom every one of them shall make oath that he hath not killed or known to be killed, or any with him, any other beast or beasts but that whereof he hath then and there produced the eares, which eares he shall forthwith cut to pieces in the sight of the said Justice.

II. *And be it further enacted* by the authority aforesaid, That if any person or persons shall kill any unmarked beast or be aiding or assisting in the killing of the same without making such oath and gaining such certificate as aforesaid, or shall imploy any slave or slaves to kill the same, without goeing himselfe or sending some white person to be along with the slave or slaves as aforesaid, or shall not bring both the eares of every beast so killed within the time hereby limited before the next Justice of the Peace and make such oath as in that case provided, or shall contrary to the true intent and meaning of this Act marke or cause to be marked any such unmarked cattle and suffer them to live, or shall neglect to give notice when they goe to hunt, as in this Act is provided, every such offender being thereof convicted by his owne confession or by the oath of one or more credible witnesses, before one or more Justices of the Peace, who are hereby impowered to administer the same to that purpose, shall forfeit for every such offence the summe of fower pounds sterling, to be leavied by way of distresse and sale of the goods and chattels of every such offender, by warrant to any Coustable under the Justice's hand before whome such conviction shall be made, one moyety of the said fower pounds to be given to the informer, and the other moyety to the honourable the Lords and absolute Proprietors of this Province, and for want of such distresse the offender shall be committed to prison for six months, without bayle or maynprize.

Penalty on neglecting the provisions of this Act.

III. *Provided alsoe*, and it is the true intent and meaning of this Act, that every offence committed against the same shall be prosecuted within six months at farthest after the commission thereof, and not otherwise.

Limitation of time.

IV. *And whereas*, divers persons evilly disposed may endeavour by many ely suggestions and false oaths to procure such power to themselves to kill such cattle, to which they have no title, *Be it therefore enacted* by the authority aforesaid, and it is enacted by the authority of the same, that every Justice of the Peace may be and is hereby impowered (if in his discretion he see fit) to refuse certificate to any such suspected person, or upon complaynt of the neighbourhood to take from such person his certificate before it be expired, any thing in this Act to the contrary notwithstanding. *Provided alwayes*, that no person whatsoever shall kill any unmarked sucking calves belonging to any marked cattle.

Justice may refuse or withdraw certificate.

V. *And it is further enacted* by the authority aforesaid, that noe person or persons whatsoever shall or may hunt for, kill or marke any unmarked cattle as aforesaid, that are or shall be on the Islands commonly called

Provision as to certain Islands.

A. D. 1696.

Thomas Island, or James Island, or the Island bounded with Edistoë, Stonoe, Kiawaugh or Wadmelaugh river, named St. John's Island, before or untill he or they have given notice to the inhabitants and neighbours on said Islands or to the major part of them, for the meeteing at some convenient place on said Island, one weeke at least before the time of meeteing, and that the major part of the number of the neighbours and inhabitants soe mett, agreeing and makeing oath before the next Justice of the Peace, of the time and numbers of their cattle being astray, are hereby impowered to range, hunt, kill and destroy any such unmarked cattle that are to be found on said Islands, by such wayes, meanes and manners as they or the major part of them soe mett and concluding as aforesaid, shall agree on. *Alwayes provided*, those soe qualified as aforesaid doe observe and performe all other thing and things else enjoyned before by this Act that is not in this clause particularly expressed, any thing or things herein or heretofore in this Act conteyned to the contrary notwithstanding.

Duration of
this Act.

VI. *And be it further enacted*, that this Act and every thing therein conteyned do continue in force two years and noe longer.

*Read three times and ratified in open Assembly,
this 16th day of March, 1695—6.*

JOSEPH BLAKE,
JOSEPH MORTON,
STEPHEN BULL,
JOHN CARY,
JAMES MOORE,
JOHN BERESFORD,
WM. HAWETT.

No. 128. *AN ACT* FOR DESTROYING BEASTS OF PREY, AND FOR APPOINTING MAGISTRATES FOR THE HEAREING AND DETERMINEING OF ALL CAUSES AND CONTROVERSIES BETWEEN WHITE MAN AND INDIAN, AND INDIAN AND INDIAN.

Preamble.

WHEREAS the Indian Nations of that part of this Province of Carolina that lyes south and west of Cape Feare, have for several yeares past, by meanes and interest of us, the subjects of King William, over England, &c. been furnished with clothes and all sorts of tools necessary for making their provisions, and have from time to time, as often as they have had need thereof, been protected and defended from their enemies, at our trouble, expences of time and charges and by our forces, in consideration whereof they have not hitherto been any ways useful or serviceable, or contributing to the inhabitants of this province more than they have been particularly and specially rewarded for: *And because* that the nations of Sante Helena, Causa, Wimbehe, Combehe, Edistoë, Stonoe, Kiaway, Itwan, Sewee, Santee, Cussocoe, have freely and voluntarily offered and consented to be obliged to kill and bring into such persons as by the Assembly shall be appoynted to receive the same, in Charlestowne, for every Indian man capable of killing deere, of every respective nation, yearely, one wolfe's skinn, one tigers skinn, or one beares skinn, or two catt skinns,

I. *Be it enacted* by his Excellency, William Earl of Craven, Pallatine, and the rest of the true and absolute Lords and Proprietors of the Province of Carolina, by and with the advice and consent of the rest of the members of the General Assembly now met at Charlestowne for the south

west part of this Province, That every Indian bowman, capable to kill deere as aforesaid, of the several nations of Indians before named, shall some time before the twenty-fifth day of November, one thousand six hundred and ninety six, and soe yearly for ever, bring into such person or persons as shall be appoynted by the Governor for the tyme being to receive the same, one woolfes skinn, or one tigers skinn, or one beare skinn, or two catt skinns. And if any Indian as aforesaid shall not bring into the receiver as aforesaid, one woolfes skinn, or one tigers skinn, or one beare skinn, or two catt skinns, as aforesaid, the casique or cheife of every nation, together with assistance of his captaines and those men which have before delivered to the receiver as before by this Act appoynted, is hereby required and impowered the Indian or Indians soe neglecting to bring to Charlestowne some tyme before the twenty-fifth day of December, one thousand six hundred and ninety six, and soe yearly forever, and the same there upon his bare back severely whipp in sight of the inhabitants of the saide towne, which whipping shall be instead of that skinn which otherwise the saide Indian ought to have given to the receiver aforesaid. And all and every of the several nations of Indians before named, which shall neglect or refuse to bring skinns as aforesaid appoynted, or in lieu thereof to punish by whipping every severall neglecting Indian of their respective nations, shall be and is hereby declared to be out of the protection of this Government, and shall not designedly receive any benefitt thereby.

A. D. 1695.

Indians to
bring in skins
of wild beasts.Or to be
whipped.

II. *And be it further enacted* by the authority aforesaid, that all skinns delivered to the Receiver aforesaid, shall be for the publick use of this province, to be disposed of by order of the Generall Assembly. *And that* all differences and controversies which hereafter may arise between Indian and Indian, or Indian and white man, may be speedily, indifferently and equally composed and determined, *Be it enacted* by the authority aforesaid, that the Governor or any one member of the Councill for the time being, shall be and are hereby nominated and appoynted commissioners to heare, trye and determine all differences and controversies which hereafter may arise between Indian and Indian or Indian and White man, and the guilty Indian to cause to make restitution in civil causes, and the same in criminal causes to cause to be punished at his discretion and according to the merits of the case, life and limb excepted, or the same to gaol to send; and the guilty white person in civil causes to cause to make restitution, and in criminal causes the same to gaol to commit, and cause to be proceeded against according to law.

Commissioners
appointed to
settle
controversies.

III. *And be it further enacted* by the authority aforesaid, that every person which shall give or any other way which shall dispose of any rum, brandy or any sorte of spirrits to any Indian or Indians whatsoever, inhabiting the southward of Edistoe river, to the northward of ***** river, inclusively, or to the westward or northwestward of Edisto river and Congaree river, exclusively, without the limitts aforesaid, shall forfeit for every time he shall dispose of any such liquor as aforesaid the summe of twenty pounds, one moyety thereof to him or them that will sue for the same, the other moyety to be paid to the public receiver, to be disposed of by order of the Generall Assembly.

Indians not to
be supplied
with liquor.

IV. *And be it further enacted* by the authority aforesaid, that the right honourable the Governor or the Governor for the time being be and is hereby humbly requested and desired from time to time and as often as need shall require, to issue out his orders to the Casiques of the severall nations for the putting this Act into execution.

Public notice
is to be given to
the Indians.

A. D. 1696.

Indians to be
paid for surplus
skins.

V. *And be it further enacted*, that all and every Indian who shall bring and deliver to the receiver or receivers as aforesaid, more than one skinn of any of the beasts aforesaid, shall have and receive from the said receiver for every such beares skinn, tigers skinn, wolfe's skinn and head brought in greene and delivered to any of them appointed to receive the same, one pound of good powder and thirty bullets.

VI. *And be it enacted*, that the public receiver do pay out of the public treasury all and every such quantities of powder and bullets to the person that paid the same to the Indian that brought in more than one skinn and head as aforesaid, whenever he be desired by the party soe to doe, if the person requiring doe deliver up to him the skinn and head for which the same was paid.

Receivers of
skins to be
appointed.

VII. *And whereas* the obligeing all Indians to bring their respective skins which by this Act they are required to doe, to Charlestowne, would be thought by them more irksome than the payment itself, *Be it therefore enacted* that the Governor for the time being shall be and is hereby desired to appoynt such and soe many persons as he shall think convenient to receive the same that live neare the Indians that are to pay.

*Read three times and ratified in open Assembly,
this sixteenth day of March, 1695--6.*

JOHN ARCHDALE,
JOSEPH BLAKE,
JOSEPH MORTON,
STEPHEN BULL,
THOMAS CARY,
JOHN BERESFORD,
JAMES MOORE,
WM. HAWETT.

No. 129. *AN ACT* FOR LAYING AN IMPOSITION UPON SKINNS AND FURRS, FOR THE DEFENCE AND PUBLICK USE OF THIS COUNTRY. (*See No. 73.*)

WHEREAS this part of this Province is alwayes in danger (by reason of the want of those necessary defensive meanes to secure the same) from the incurtions of pirates and privateers, and more especially at this time, the warr still continuing, and the late reports of the greate power the French King is designing for these parts; it being therefore highly necessary that some speedy and effectual care be taken herein, and that many other things for the publick good of the Province are now really wanting, which for want of money or a publick fund cannot be effected,

Duty of one
penny on each
skin or fur.

I. *Be it therefore enacted* by his Excellency, William Earl of Craven, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestowne, for the south west part of this Province, *And it is enacted* by the authority of the same, that from and after the last day of June 1696, that for all and every Skinn or Skinns, Furr and Furrs, that shall be shipped or put on board any ship or ships, vessel or vessells whatsoever, by any person or persons whatsoever, there shall be paid for every such Skinn or Skinns, Furr or Furrs, by the person that ships them, one penny current money.

II. *And be it further enacted* by the authority aforesaid, that if any Skinns or Furrs whatsoever shall be put or caused to be put on board any ships or

vessels as aforesaid, either directly or indirectly, before the duty or imposition aforesaid is duly paid to the publick receiver, or his lawful deputy, or a permit from one of them for the same be obteyned, all and every of the said Furrs and Skinns soe put on board as aforesaid, are hereby forfeited, one moyety thereof to the person or persons who shall seize, informe or sue for the same, and the other moyety or halfe part shall be for the defence and publick use of this part of this Province, to be paid to the publick receiver for the time being or his lawful deputy.

A. D. 1695.

Penalty on neglect of payment.

III. *And be it further enacted* by the authority aforesaid, that any person or persons whatsoever, intending to ship or export any of the Skinns or Furrs aforesaid, or the **** of the said Skinns or Furrs, shall before the shipping of the same, give in writing, and under his or their hands, and that upon his or their several oaths, according to his or their profession, before any magistrate, unto the publick receiver or his lawful deputy, a true and exact account of the number and quality of all and every the Skinns and Furrs intended to be shipped off, with the outward bulke, markes, and number of all and every parcel, with the name of the ship or vessell and commander thereof, which said wrighting being attested by the magistrate, the publick receiver or his lawful deputy is to keepe and enter the same in a booke to be kept for that purpose, and then to grant a permitt (the duty being first paid) for the shipping thereof, without any cost or delay to the shipper or exporter.

Shipments to be entered.

IV. *And be it further enacted* by the authority aforesaid, that Mr. Jonathan Amory be publick receiver of all dues, duties, penalties, and forfeitures arising or growing due or payable by this Act, and the said receiver or his deputy are hereby authorized and enabled to goe or enter on board any vessell or vessells in the day time, and make search in all places and parts therein, and if need be, break open any locks or chests, casques, bayles or any other thing whatsoever, if they refuse to open the same, and their seizure, and from their bring on shoar all Skinns and Furrs whereof the duties aforesaid have not been paid to the said receiver or his lawful deputy, and to do all other matters and things which may tend to secure the true payment of the duties by this Act imposed; and if any person or persons whatsoever shall forcibly resist, incourage or assist any person or persons to resist, &c. said publick receiver or his deputy, in the due execution of this Act, then every said person for every said offence shall forfeit and pay the sum of one hundred pounds, the one halfe thereof to him or them that shall informe or sue for the same, and the other halfe part for the defence and publick use of this place, to be paid to the public receiver for the time being or his lawful deputy.

Right of entry into vessels given to the Receiver.

V. *And be it further enacted* by the authority aforesaid, that the said publick receiver or his deputy, before he or they execute any part of his or their office, shall and do first take his or their corporal oath, before the Governor for the time being, to execute their places duely and honestly; and the said publick receiver for his care, paines and trouble in the due execution of his office aforesaid, shall take and receive to himself out of all such sume and sumes of money he shall collect, receive and pay by virtue of this Act, tenn pounds for every hundred pounds he shall receive, and soe proportionably for a greater or lesser quantity.

Receiver to qualify before a magistrate.

VI. *And be it further enacted* by the authority aforesaid, that the publick receiver aforesaid is hereby authorized and impowered to pay all such sume or sumes of money he shall collect and receive by vertue of this Act, as he shall be directed from time to time by the Generall Assembly, and the same shall be allowed upon his accounts accordingly, and the

Duty of the Receiver.

A. D. 1695.

Forfeitures
how to be
recovered.

said publick receiver shall render his account to the Commons aforesaid, or to any by them appoynted, at such time and limit and as often as they shall thinke fitt.

VII. *And be it further enacted* by the authority aforesaid, that all the penaltyes and forfeitures, and every sume or sumes of money for any offence or offences herein before mentioned, shall be recovered by action of debt, bill, playnt or information, to be brought for the same in any court of record within this part of this Province, wherein no wager of law, protection or essoign shall be allowed. And if any of the Skinns or Furrs aforesaid be seized for any offence committed against this Act, shall be claimed by any person whatsoever, or any action, suite or information shall be brought for or upon the said Skinns or Furrs soe seized, the onus probandi shall lye upon the claimer or defendant, and shall not be incumbent on any prosecutor or informer.

Certain Acts
continued.

VIII. *And be it further enacted* by the authority aforesaid, that an Act entituled An Act to raise money to be disposed of for the encouragement of the production or manufacturing of divers sorts of provisions and commodities of the growth of this Province, ratified in open Assembly, the 20th day of June 1694, with an additional Act ratified the 16th day of July, 1695, be continued, and is hereby declared to be in force three years and one halfe from and after the ratification of this Act, any thing in the said Act to the contrary notwithstanding. And that all the money raised, except such sums as are therein appoynted for particular uses and already disposed of, or to be disposed of, before the first of April next, or to be raised by vertue of the said Act, shall be employed to the same uses as the money before by this Act ordained to be raysed, is appropriated to and by order of the Generall Assembly as aforesaid.

The duty how
to be employed.

Compensation
of the receiver.

IX. *And be it further enacted* by the authority aforesaid, that the publick receiver for the time being have no more for collecting the duty of the said Act than tenn pounds for every hundred.

Acts annulled

X. *And be it further enacted* by the authority aforesaid, that an Act entituled an Act to encourage the making of Wine, Indigo and Salt, and another Act entituled, an Act to encourage the planting of wheate, made and ratified at Charlestown, the twentieth day of June, 1694, and every clause in them contayned, are hereby repealed, annulled and made void.

Provided, that all hides, raw and tanned, of neate cattle, and tanned and shamoy Skinns, be transported duty free, any thing in this Act notwithstanding.

Governor
impowered
to appoint a
receiver or
receivers.

XI. *And be it further enacted* by the authority aforesaid, that the honorable the Governor and Councill, for the time being, is hereby impowered to appoint a receiver in case of the death of the receiver herein nominated and appoynted, untill the sitting of the Assembly next after such death shall happen.

XII. *And be it further enacted*, that this Act and every thing herein contayned doe continue in force three yeares and one halfe and noe longer.

*Read three times, and ratified in open Assembly,
this 16th day of March, 1695-6.*

JOHN ARCHDALE,
JA. MOORE,
JOHN BERESFORD,
WILL. HAWETT,
JOSEPH BLAKE,
JOS. MORTON,
STE. BULL,
THOMAS CARY.

A. D. 1695.

AN ACT FOR REGULATING PUBLICK HOUSES, AND TO ASCERTAIN THE PRICES OF LIQUORS.

No. 130.

WHEREAS the unlimited number of Taverns, Tapp Houses and Punch Houses, and the want of sobriety, honesty and discretion in the owners and masters of such houses, have and will encourage all such vices as usually are the productions of drunkenness, for prevention whereof,

I. *Be it enacted*, by his Excellency, William Earl of Craven, Pallatine, and the rest of the true and absolute Lords and Proprietors of the Province of Carolina, by and with the advice and consent of the rest of the members of the Generall Assembly, now met at Charlestowne for the south west part of this Province, *And it is enacted* by the authority of the same, that noe person whatsoever shall sell any Beer, Cider, Wine, Brandy, Rum, Punch, or any strong drinke whatsoever under the quantity of one gallon at one draught, untill he or they have obtained a lycence from the right honorable John Archdale, Esq. Governor and Captain Generall of Carolina, or the Governor for the time being, for such selling the aforesaid liquors under the quantity aforesaid shall forfeit every time he or they shall sell any quantity less than one gallon, six pounds current money of this Province, to be leavyed by bill, playnt, or information in any of the courts within this Province, forty shillings thereof to the prosecutor and four pounds to the Governor aforesaid.

II. *And be it further enacted* for the better prevention, suppression and punishment of such vices as are commonly practiced in such public houses, that the right honourable the Governor, for the time being, any one of the Lords Proprietors deputyes, or two Justices of the Peaze, shall have power and they are hereby impowered to putt in execution, all laws, both statutes and common of the Kingdome of England, which have been provided and used, and are now in force, for or concerning the abuses and disorders of Taverns, all Houses and all Victualling Houses, and retailing of any sorts of strong liquors whatsoever, and the owners or masters thereof, and all persons which contrary to the said laws doe haunt and frequent the same, as fully and effectually to all intents and purposes as the same ought or could be within the Kingdome of England, by any or every person therein thereunto impowered; and every person which shall or doe offend contrary to the said laws or any them, are hereby declared to be and are made lyable to the same forfeitures and penalties to be leavyed and inflicted as the same is accustomed or appoynted in England.

III. *And be it further enacted* by the authority aforesaid, that every person shall at the time he receives his lycence or before, give bond to Richard Connant, Esq. Clerke of the Crown, or the Clerke of the Crowne for the time being, for tenn pounds current money of this Province, payable to the said Richard Connant, Esq. Clerke of the Crowne, or the said Clerke for the time being, the condition of which bond is to be indorsed or annexed in these express words following. *The condition* of the above obligation is such, if the above bounden A.B. shall or doe sell Madera Wine for noe more than three royalls one quart, or any other Wine made in the Western Islands for no more than two royalls one quart, one quart of Beare or Ale for no more than sixpence except that which is brewed in old England and brought from thence in bottles, Sider and Rum Punch for noe more than sixpence one quart, and soe in proportion for any greater or lesser quantity of any of the aforesaid liquors; then this obligation to be voyd, otherwise to remain in full force and virtue.

A.D. 1695.

IV. *And be it further enacted*, that the said Richard Connant, Esq. Clerke of the Crowne, or the Clerke of the Crowne for the time being, and all constables, is and are hereby obliged to prosecute all persons by bill, playnt or information in any court in Carolina, which doe sell liquors contrary to this Act, which if they refuse or neglect to doe it shall and may be lawfull to prosecute the said Clerke of the Crowne or constables at session, and theire to be fined any sum not above twenty pounds.

V. *And be it further enacted* by the authority aforesaid, that the said Richard Connant, Esq. Clerke of the Crowne, or the Clerke of the Crowne for the time being, shall at any time when requested by any constable or any other person which will make information that any person have or doe sell liquors contrary to this Act, give, sign and seal a sufficient power of attorney to such person or persons to sue the obligation of any person which he does alledge hath offended.

VI. *And be it further enacted* by the authority aforesaid, that all persons which shall receive any powers of attorney from the Clerke of the Crowne for the time being, shall be obliged to prosecute the same at the next court.

VII. *And be it further enacted* by the authority aforesaid, that if any person or persons doe or will keepe disorderly houses, or sell liquors contrary to the true intent and meaning of this Act, it shall and may be lawfull to and for the Governor for the time being, or the deputy Governor, or any two Justices of the Peace, to take away their lycence and cause them to be prosecuted at sessions and there to be fined any sume not above twenty pounds.

VIII. *And be it further enacted* by the authority aforesaid, that the said Richard Connant Esq. Clerke of the Crowne, or the Clerke of the Crowne for the time being, or any other person that doth at any time sue the obligation of any person for offending against this Act, shall have one moyety of the money recovered to his own use, and the other moyety to be paid to the publick receiver to be disposed of by order of the General Assembly.

IX. *And be it further enacted* by the authority aforesaid, that all persons whatsoever whose lycence is not expired, are bound and obliged to give the like bond as is before mentioned, to sell drinke at the prices before mentioned, at or before the 10th day of April 1696, to Richard Connant, Esq. aforesaid, or the Clerke of the Crown for the time being. And if any person refuse or neglect to give the aforesaid obligation to sell drinke at the prices before mentioned, the person is to loose the benefit of his lycence and to be prosecuted by bill, playnt or information in any court of record, for the like penalty as if they never had one.

X. *And be it further enacted* by the authority aforesaid, that every person which after the twentieth day of March 1695-6, doth or shall retayle any strong liquors, shall pay to the right honorable John Archdale, Esq. Governor and Capt General, or the Governor for the time being, for each lycence for selling the same for the time and terme of one year after the date of the said lycence, the sum of five pounds current money of this Province for retayling Wine and all sorts of strong liquors, and three pounds current money for retayling of any or all sorts of strong liquors (Wine excepted.)

XI. *Provided alwayes* and it is hereby enacted, that no person which shall pay the sume of money for a lycence aforesaid, within one whole year after the first payment aforesaid, and all persons which have taken lycence

from Landgrave Joseph Blake, late Governor, and paid for the same, shall not be obliged to pay for a lycence before the expiration of the time for which they have paid respectively, any thing in this Act conteyned to the contrary notwithstanding.

A. D. 1695.

XII. *Provided alwayes*, and it is hereby enacted, that any planter may sell, at any place out of Charlestowne, any quantity of liquor to the labor-ours in his owne family or to his neighbours, not to be drunk in his owne house, he having first obteyned a lycence for his soe doing under the hand and seale of any one member of the Councill or the next Justice of the Peace, for which lycence noe fees shall be paide, and not otherwise, under the same paines and penalties by this Act imposed on such persons as shall sell without lycence in Charlestowne, and to be leavyed after the same manner and to the same uses as is before expressed, any thing in this Act to the contrary notwithstanding.

XIII. *And be it further enacted*, that this Act and every thing therein conteyned doe continue in force three whole yeares and noe longer.

*Read three times, and ratified in open Assembly,
this sixteenth day of March, 1695-6.*

JOHN ARCHDALE,
JOSEPH BLAKE,
JOS. MORTON,
STE. BULL,
THOMAS CARY,
JAMES MOORE,
JOHN BERESFORD,
WM. HAWETT.

NOTE.—See the Act No 95, already inserted, and the note thereto. The present Act was continued by Act 169, Aug. 26, 1699. It was further continued for two years, if James Moore, Esq. continue so long Governor, by Act (No. 200 of Trott, but 199 of the original Acts) being a continuing and reviving Act, of Sept. 10, 1702.

AN Additional ACT TO PREVENT THE SEA'S FURTHER ENCROACHMENT UPON THE WHARFE AT CHARLESTOWNE. No. 181.

(Referred to the Charleston Acts, in the last volume.)

A. D. 1696.

No. 132.

AN ACT FOR THE POORE.

BE IT ENACTED by his Excellency, William Earl of Craven, Pallatine, and the rest of the true and absolute Lords and Proprietors of Carolina, by and with the advice and consent of the rest of the Members of the General Assembly, now met at Charlestowne, for the South West part of this Province, *And it is enacted* by the authority of the same,

Commissioners
of the Poor
appointed,

I. That all moneys and other things whatsoever that heretofore hath been given or hereafter shall be given by any person whatsoever to the Poore of Carolina, or any other charitable use, and not appoynted by the donor to be disposed of by any particular person or persons and to some particular poore or special use, shall be paid and delivered unto Mr. John Alexander, William Smith, Esq. Capt. Charles Basden, Mr. Jn. Ladson and Mr. Thos. Gilbertson, or whome they or any three of them shall appoynt, to be equally, indifferently and according to the necessity of each person distributed to the poore of this Province in general, or to the poore of that part of the Government for which it shall be specially appoynted by the donor.

Who shall
distribute
effects that
come to their
hands,

II. *And be it further enacted*, That the persons aforesaid or any three of them, shall have power and they are hereby impowered at the publick charge, to sue, arrest or implead all and every person or persons which shall refuse or neglect to deliver to them any money or other thing whatsoever which by any meanes shall have come to their hands, soe given or to be given as aforesaid, or which shall neglect to dispose or make application of it according to the direction, will or appoyntment of the donor, and the same to imprison or cause to be imprisoned till they shall surrender and deliver all money soe given or to be given to the persons aforesaid or any three of them, to dispose of the same as aforesaid.

And bind out
poor children.

III. *And whereas* the moneys that have been or shall hereafter be given for the use of the poore of this part of this Province, may not be sufficient for the relief of the lame, the impotent, old, and blind men, and for the children thereof, and that further provision be made for them, *Be it therefore enacted* by the authority aforesaid, that the persons aforesaid or any three of them shall have power to take out of the publick money of this Province not exceeding tenn pounds per yeare, and of that to give such competent summe or summes of money for and towards the necessary reliefe of the lame, sick, impotent, old, blind, and such other persons being poore and not able to worke, as to them shall seeme convenient. And it shall be lawful for the said persons or any three of them, with the assistance of one or more Justices of the Peace, to imploy any poore person in such worke as to them shall seeme most fitt, and also to bind any poore child or children to be apprentices, where they shall see convenient, till every male child shall come to the age of twenty-one yeares and every female child to the age of nineteen yeares or the time of her marriage, and the same to be effectually to all intents and purposes, as if he or she had been of full age and had bound themselves.

Receiver
General to pay
over ten
pounds yearly.

IV. *And it is likewise enacted* by the authority aforesaid, that the general receiver of this part of this Province is hereby required, commanded and impowered to deliver unto the aforesaid persons or any three of them all such sume or summes of money as shall be by the aforesaid persons or any three of them required for the reliefe of the poore, not exceeding tenn pounds a yeare as aforesaid, and their receipt shall be his discharge.

V. *And be it further enacted* that the said John Alexander, William Smith, Charles Basden, John Ladson and James Gilbertson, or whome they or any three of them shall appoynt, shall keepe faire accompts, with the names of the persons to whome such sume or summes have been delivered, and of all moneys and other things that shall come to their hands or be disbursed by them by virtue of this Act, in some knowne house in Charlestown and at their respective dwelling, to be seen by any person requesting to see the same, and shall at all times be accountable to the Generall Assembly.

A. D. 1695.

Commissioners
to keep fair
accounts.

*Read three times, and ratified in open Assembly,
this sixteenth day of March, 1695-6.*

JOHN ARCHDALE,
JOSEPH BLAKE,
JOSEPH MORTON,
STEPHEN BULL,
THOMAS CARY,
JAMES MOORE,
JOHN BERESFORD,
WILLIAM HAWETT.

NOTE.—See No. 103, 159. This present Act is repealed by Act for the better Reliefe of the Poore, passed Dec. 12, 1712. See Additional Act, 19th May, 1758, whereto a full reference to the poor laws will be given.

AN ACT TO APPROPRIATE THE MONEYS RAISED AND TO BE RAISED BY AN IMPOSITION ON LIQUORS, &c. IMPORTED INTO AND SKINNS AND FURS EXPORTED OUT OF THIS PART OF THIS PROVINCE, TO A FORTIFICATION IN CHARLESTOWNE.

No. 133.

[Ratified 16th March, 1695-6. See the Collection of Acts relating to Charleston, in the last volume.]

AN ACT TO CONTINUE AND REVIVE THE SEVERALL ACTS WITHIN MENTIONED.

No. 134.

BE IT ENACTED by his Excellency, William Earle of Craven, Pallatine, and the rest of the true and absolute Lords Proprietors of this Province, by and with the advice and consent of the rest of the members of the Generall Assembly, now met at Charlestowne for the south west part of this Province, That an Act entituled An Act for the Entry of Vessells, and an Act entituled An Act for the Tryall of Small and Meane Causes, be and are hereby continued in full force for the full time of two yeares after the ratification of this Act, any limitation or other thing in the said Acts to the contrary contained notwithstanding.

II. *And be it further enacted* by the authority aforesaid, That an Act entituled An Act for making sufficient Fences and keeping the same in repair, is hereby revived and continued in full force for and during the full term and time of **** yeares from and after the ratification of this Act, any limitation in the said Act conteyned to the contrary notwithstanding.

A. D. 1695.

III. *And be it further enacted* by the authority aforesaid, That an Act entituled An Act for the better Secureing the Payment of Debts from any Person inhabiting and resideing beyond Sea or elsewhere within the limitts of this part of this Province; and an Act entituled An Act to empower the severall Magistrates, Justices, Ministers and Officers within this part of this Province to execute and putt in force an Act made in the Kingdome of England in the 31st yeare of the reigne of King Charles the Second, commonly called the Habeas Corpus Act; and an Act entituled An Act for the better and more certaine keepinge and preserveing of all Registries and Publick Wrighteings of this part of this Province; and an Act entituled An Act for the better Settlement of this Province, be and are hereby continued and confirmed.

Read three times and ratified in open Assembly, this sixteenth day of March, 1695-6.

JOHN ARCHDALE,
JOSEPH BLAKE,
STEPHEN BULL,
THOMAS CARY,
JAMES MOORE,
JOHN BERESFORD,
WM. HAWETT.

NOTE.—The Acts revivd and continued by the preceding Act, are: No. 66, ante, page 61, and No. 100, page 78; No. 67, ante, page 62, and No. 93, page 77; No. 74, ante, page 68; No. 87, ante, page 74; No. 88, ante, page 74; No. 107, ante, page 79. (Not the Act No. 65, ante, p. 52, which was repealed by the King in Council.) No. 111, ante, p. 81.

No. 135. *AN ACT* INHIBITING THE TRADEING WITH SERVANTS AND SLAVES.—
[Ratified March 16th, 1695-6. Referred to the general collection of Acts relating to the Coloured population, in the last volume.]

No. 136. *AN ACT* TO PREVENT MARRINERS AND SEAMEN RUNNING INTO DEBT.

Preamble.

Credit
prohibited
beyond five
shillings.

WHEREAS several ill-disposed people have given credit to Mariners and Seamen more than they are able to pay, for which reason they are forced to forsake their employs, to the great delay of Shipping, and detriment of Merchants and Owners, *Be it therefore enacted* by His Excellency William Earl of Craven, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the Members of the General Assembly, now met at Charles-town for the south-west part of this Province, *And it is enacted* by the authority of the same, That if any person or persons whatsoever, after the ratification of this Act, shall or may, on any pretence or pretences whatsoever, give any credit, loan or trust, to any mariner or any other person whatsoever, belonging to and under the command of the commander or master of any vessel that now is, or shall at any time hereafter arrive in this part of the Province, exceeding the sum of five shillings, except in matter of trade by leave and licence of the master or commander of the vessel he belongs to, that then and in such case, he, she or they shall for

every such default, loose all the monies and goods so credited or trusted, and shall over and above the moneys and goods so credited and trusted, forfeit double the value thereof. *Provided*, if any mariners or seamen belonging to any vessel or vessels shall be visited with sickness, then it shall and may be lawful for any one Justice of Peace by an order under his hand, to licence the master or mistress of any publick house or ordinary, or any private house, to give him or them, being sick as aforesaid, credit for any sum or sums of money, as the said master and mistress of any house is willing to trust for their necessary relief.

A: D. 1695.

Unless in case of sickness.

II. *And be it further enacted*, That if any person or persons whatsoever shall willingly and knowingly entertain, retain, harbour or keep, or shall directly or indirectly suffer to be entertained, retained, harboured and kept any seamen or mariners belonging to any ship or vessel as aforesaid, in his, her or their house or houses exceeding the term and space of twenty-four hours, without the assent of and privacy or consent of his or their master or commander, he, she or they so offending, shall forfeit and pay the sum of twenty shillings current money of this province, for every twenty-four hours he, she or they shall offend as aforesaid.

Not to harbor mariners beyond 24 hours.

III. *And be it further enacted*, That any publick house-keepers that entertaine any seamen or mariners that belong to any ship in the harbour, after eight of the clock in the winter at night, and nine of the clock in summer at night, which hath not leave from his master or commander in writing to be on shore, shall forfeit twenty shillings for every default; and the captain of the night watch is hereby required to observe in his rounds, and see the same be duly observed and kept.

Nor after 8 at night in winter and 9 in summer.

IV. *And whereas* many times disputes have risen about executing the Warrants of Justices of the Peace upon the water within the barr of Ashley River, which is within the body of Berkley County, *It is therefore enacted* by the authority aforesaid, that all such warrants or subpœnas given by any Justice of the Peace, in order to prosecute and sue for any Penalty by this Act made, against any person or persons on board any ship or vessel, be directed to the Provost Marshal, or Marshal of the Admiralty, or their lawful deputies, or any of the lawful Constables of Charlestown, according to the tenour of the said warrant, who are hereby required and impowered to execute the said warrants and subpœnas, and to receive for the same two shillings and six pence, and no more.

Process to whom directed.

V. *And be it further enacted*, That all the penalties and forfeitures by this Act made and imposed, shall be to him or them that will sue for the same, before any two Justices of the Peace, if the whole forfeiture or sum exceed forty shillings, and one Justice of the Peace if it exceed not forty shillings; and all Justices are hereby required and impowered to try, judge and determine the same, and award execution on body or goods, any law, custom or usage to the contrary notwithstanding.

Penalty to go to the person suing for it.

VI. *And be it further enacted*, That this Act, and every thing therein contained, do continue in force three years and no longer.

Act to continue three years.

Read three times and ratified in open Assembly, this sixteenth day of March, 1695-6.

JOHN ARCHDALE,
JOSEPH BLAKE,
JOSEPH MORTON,
STEPHEN BULL,
JAMES MOORE,
JOHN BERESFORD.

, NOTE.—This Act was continued by seven subsequent Acts, and made perpetual by Sect. 1 of an Act to make perpetual, &c. passed Dec. 12, 1712. But see the Act relating to Mariners and Seamen, of 17th May, 1751.

A. D. 1695.

No. 137. AN ACT FOR THE REGISTERING OF BIRTHES, MARIAGES AND BURIALLS.

- Preamble.** WHEREAS the want of registering of birthes, burialls and marriages hath and hereafter will, in the descent of lands and other estates, occasion many controversies, sometimes to the ruining of orphans and other persons illiterat and ignorant in the law, for prevention whereof, *Be it enacted* by his Excellency William Earl of Craven, Pallatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, That every man which hereafter shall be married according to the ruberick of the Church of England, or by any other contract or ceremony, shall register his marriage in the Register's office, within thirty days after the solemnization thereof, or for want of registering thereof shall for every week he shall neglect to register the same, forfeit and pay unto the register one royall.
- Enactment.** II. *And be it further enacted*, that the parents of every child which hereafter shall be born within this part of this Province, shall register the birth of his or their child in the Register's office within thirty days after the birth thereof, or for neglect thereof shall forfeit and pay for every week he or they shall neglect the same one royall to the Register.
- Marriages to be registered.** III. *And be it further enacted*, that every master of a family shall register the death of every christian belonging to his said family which shall die in his plantation, within thirty days after his or her death, or for neglect thereof shall forfeit and pay unto the Register one royall for every week he shall neglect to do so. And every person which shall register the birth, marriage or burial of himself or any other person shall pay to the register or his deputy fifteen pence for registering the same. And the Register or his deputy shall always live in Charlestowne, and shall keep a book for registering birthes, marriages and burialls only, in which he shall register the time of the births, marriages and deaths of every person, with their names, and the names of their father and mother, if he know them.
- Births to be registered.** IV. *And be it further enacted* that no forfeiture to be paid by this Act shall exceed forty shillings. [The rest of this section illegible from being mutilated.]
- Burials to be registered.** V. *And be it further enacted*, that all persons that have not before the ratification of this Act registered the birthes, marriages or burialls of any person necessary to be registered, shall still have liberty so to do, paying only the half fee, any thing in this Act to the contrary notwithstanding.
- Registers of births, marriages and burials, previous to this Act, may be made.** VI. *And be it further enacted* by the authority aforesaid, that any person that shall register his or their marriage in the Register's office, shall produce a certificate from under the hand of the parson, minister, magistrate or otherwise, from and under the hand of six persons at least met and congregated at such religious meateing where such marriage was solemnized, and the Register is hereby commanded to file the same in his office, and to pay due obedience to the same, on the penalty of forfeiture of his office.
- Certificate of marriage to be filed.** VII. *And be it further enacted* by the authority aforesaid, that the heirs, executors or administrators of the late Register, shall within thirty days

after demand by the Register for the time being made, deliver all the records, bookes and papers belonging to the same, which shall any wayes come to their hands or knowledge, upon the paine and forfeiture of fifty pounds, to be levied upon his or their goods, chattels or estate. [The rest of this section mutilated and illegible.]

A. D. 1695.

VIII. *And be it further enacted*, that this Act and every thing therein contained do continue in force for two yeares and no longer.

*Read three times, and ratified in open Assembly,
this sixteenth day of March, 1695-6.*

JOHN ARCHDALE,
JOSEPH BLAKE,
JOS. MORTON,
STEPHEN BULL,
JOHN BERESFORD,
THOM. CARY,
JAS. MOORE,
WM. HAWETT.

NOTE.—It is much to be regretted that provisions of the same nature as those of the preceding Act, are not re-enacted to be permanently in force. Most of the Northern States have a similar Act, affording statistical documents of very great public importance.—EDITOR.

AN ACT for the Better Settling and Regulating the Militia. No. 138.
(Ratified March 16, 1695-6, for one year. See Acts No. 144, 157, 163.
Expired. *See last volume.*)

AN ACT for the keeping and maintaining a Watch and good Orders in No. 139.
Charlestowne.
(Ratified March 16, 1695-6. Repealed by Act No. 144. *See last volume.*)

AN ACT for the Cutting of several Creeks and Water Passages for No. 140.
the Benefit of the Inhabitants of this Province.
(Ratified 16th March, 1695-6. *See last volume.*)

AN ACT for the Better Ordering of Slaves. No. 141.
(Ratified 16th March, 1695-6. Enacted for two years. Expired.
See Act No. 57. *See last volume.*)

A. D 1696

No. 142. AN ACT for making and mending High-ways and Paths, and for the cutting of Creeks and Water-Courses.

(Ratified December 5th, 1696. See last volume.)

No. 143. AN ACT TO PREVENT ABUSES BY FALSE WEIGHTS AND MEASURES, AND TO APPOINT A SWORN MEASURER.

Preamble.

WHEREAS the makeing and using false weights and measures greatly tends to the oppressing of the poor and the deceiving of all others,

A sworn surveyor of weights and measures appointed.

Be it enacted by his Excellency, William Earl of Craven, Palatine, and the rest of the true and absolute Lords and Proprietors of Carolina, by and with the advice and consent of the rest of the members of the General Assembly now met at Charlestowne for the south west part of this province, That for the better discovery of all deceptive weights and measures and other abuses contrary to the intent of this Act, that David Maybank (being duly sworne truly and faithfully to discharge the said trust) be and is hereby appoynted to survey, seale or marke all weights and measures in this part of this Province, and that he have power and is hereby impowered and oblidgeed once within three months at least, and as often as he shall be desired by any person suspecting false weights and measures, to search, examine, try and marke all weights and measures in Charlestowne, at the respective houses of the owners, some time within twenty days after the ratification of this Act. And all persons not inhabiting in Charlestowne shall within two months after the ratification of this Act (or before they buy or sell with the same) bring their weights and measures to the dwelling house in Charlestowne of the aforementioned David Maybank, to be tried and marked ; and soe many as are found good, this mark **** thereon to putt, and all that are found defective and not good after the times abovementioned, to burne and cutt in pieces and the owners thereof to informe against, according to the intent and meaning of this Act. And that all and every person or persons shall pay for markeing every averdupoise weight two pence, and for markeing every measure great or small, three pence, and for every sett of troy weights for weighing silver and gold coyne, one royall.

The mark.

Standards to be kept.

II. *And that* a true standard agreeable to the standard in England both of troy and averdupoise weights and of all measures may not be wanting in this part of this province, the said David Maybank is hereby required to provide and procure the same and in his possession to keepe, that all differences and disputes which shall or may happen to arise, concerning the same, may be speedily determined and the deceipts thereof timely prevented.

Penalty for false weights.

III. *And be it enacted*, that if any person or persons shall keepe and use double weights and measures, viz. one to sell withall and another to buy with, or which shall keepe and use other weights and measures than such as are marked and agreeing to and with the standard appoynted to be kept by the aforementioned Maybank, shall forfeit for every time he or they are convicted thereof, tenn pounds, to be recovered by bill, playnt, or information, in any court of this part of this province, one moyety thereof to be paid into the hands of the public

receiver for the use of the country, and the other moyety to him or them that will sue for the same; and for want of effects to leavy the same upon, shall suffer three months imprisonment, without bayle or maineprize. A. D. 1696.

IV. *And be it further enacted*, that no person or persons whatsoever do presume to counterfeitt or sett the marke before appoynted upon any weight or measure whatsoever, upon the paine of the forfeiture of five pounds for every such offence, to be recovered and disposed of as in the clause last before mentioned is provided. Penalty on counterfeiting.

V. *And for the speedy deciding of differences and disputes that shall and may arise concerning the equall and exact measureing of Boards, Planks, or any Timber whatsoever, It is hereby enacted*, that David Maybank, being first duly sworne, be and is hereby appoynted public measurer of this part of this Province, and impowered to determine all such differences and disputes which shall happen concerning the same, and that he receive three pence a hundred for measureing boards and all flatt measure, and six pence the tunn for all timber, and soe proportionable for a greater or lesser quantity. And upon default of the aforesaid David Maybank in the due and just execution of the said places, according to the true intent and meaning of this Act, the right honourable the Governor, or the Governor for the time being, is desired and hereby impowered to remove and displace the said Maybank, and to nominate and appoynt any other person in his stead that he shall judge fitt to perform the said trust and place. Fee to the Public Measurer.

VI. *And it is further enacted*, that if the said David Maybank shall either willfully or fraudulently abuse, neglect, deny or refuse to performe all and every thing required and appoynted by this Act, shall forfeit for each and every default the sume of forty shillings, to be recovered by warrant under the hand of any one or more justices of the peace, in like manner and forme as in an Act entituled An Act for the Tryall of Small and Meane Causes, is ordained and appoynted. Penalty on neglect of duty.

VII. And to prevent the scarcity of Salt, *Be it enacted* by the authority aforesaid, that any person whatsoever that shall directly or indirectly shipp to export any quantity of Salt when the same is commonly sold at five royalls the bushell or more, shall forfeit for every bushell so shipt to be exported, the sume of twenty shillings, to be recovered by bill, playnt, or information, in the Court of Pleas, one halfe thereof to the informer or prosecutor, and the other moyety for the publick use. Price at which Salt may be exported.

VIII. *And be it further enacted*, that this Act and every thing therein conteyned doe continue in force two yeares, and noe longer. To continue two years.

*Read three times, and ratified in open Assembly,
this 5th day of December, 1696.*

JOSEPH BLAKE,
JOS. MORTON,
STE. BULL,
JA. MOORE,
THOMAS CARY,
WILL. HAWETT,
JOHN BERESFORD.

A. D. 1696.

No. 144. AN ACT to Revive an Act for the Better Settling and Regulating the Militia.

(Ratified December 5th, 1696. See last volume.)

No. 145. AN ACT FOR THE ENCOURAGEMENT OF THE BETTER SETTLEMENT OF SOUTH CAROLINA.

Preamble.

WHEREAS several honest and well meaning persons by misfortunes in the warrs betweene the Crowne of England and France, and other similar accidents, have been brought in debt more than in due time they were able to pay, to avoid the urgency and severity of their creditors, and to gaine time to enable themselves to pay their debts, have been forced to remove themselves and families out of Europe into his Majesties plantations in the West Indias and out of one plantation in the said West Indias into an other: To encourage such persons to transport themselves and families into this Collony, the most fertile in the West Indias, and to enable them and such others already here by their industry and dilligence employed on a fruitfull soil, to pay their debts,

Persons
settling in
South Carolina
not liable to be
sued until five
years.

I. *Be it enacted* by his Excellency, William Earl of Craven, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the Generall Assembly, now met at Charlestowne, for the south-west part of this Province, *And it is hereby enacted* by the authority of the same, That no person now inhabitting in South Carolina shall be arraigned, sued or impleaded in any court, or imprisoned for any debt, whether the same be by bill, bond or any other specialty, reckoning or account whatsoever, contracted before his arrival into South Carolina, till after five yeares after the ratification of this Act; and that no persons whatsoever who shall hereafter transport themselves into South Carolina, there to plant and inhabit, shall be arrested, sued or impleaded in any court, or be imprisoned for any debt, whether the same be bill, bond, or any other specialty, accompt or reckoning whatsoever, contracted before his arrivall here, till and after five yeares after his arrivall here.

Proviso.

II. *Provided allways*, and it is hereby further enacted, that no factor, agent, merchant, or other person whatsoever, who hath or shall contract any debts for goods, wares or merchandizes, or for money or credit to buy goods, wares or merchandizes to be brought into South Carolina, or which shall bring any thereof into South Carolina, shall have any benefit or priviledge by this Act, any thing therein to the contrary notwithstanding.

*Read three times and ratified in open Assembly,
this 5th day of December, 1696.*

JOSEPH BLAKE,
JOSEPH MORTON,
STEPHEN BULL,
JAMES MOORE,
THOMAS CARY,
WM. HAWETT,
JOHN BERESFORD.

NOTE.—This Act was repealed by his Majesty in Council.

The part of South Carolina lying South and West of Cape Fear, began about this time to be called South Carolina.

A. D. 1696.

AN ACT for the Raiseing of a Publick Store of Powder, for the Defence of this Province. No. 146.

(Ratified December 5th, 1696. For two years. Expired. This Act being substantially a re-enactment of No. 113, about to expire, and a continuance of the duty of half a pound of gunpowder per ton measurement, of each vessel entering the ports of and not belonging to any inhabitant of the Province—is not copied.)

AN ACT for building a Fortification at Charlestowne. No. 147.
(Ratified December 5th, 1696. Obsolete. See last volume.)

AN ACT TO CONTINUE THE ACTS WITHIN MENTIONED. No. 148.

WHEREAS by an Act entituled An Act for the ascertaining the Guage of Barrells, &c. it is enacted that Mr. Charles King and as many as he shall think fitt, are appointed Searchers, Guagers and Packers; and for as much as great quantities of Porke and Beefe are transported from this part of the Province, soe that the said King is not capable alone, timely to dispatch the same,

I. *Be it enacted* by his Excellency, William Earl of Craven, Pallatine, and the rest of the true and absolute Lords and Proprietors of the Province, by and with the advice and consent of the rest of the members of the General Assembly now met at Charlestowne for the south west part of this Province, *And it is enacted*, That Mr. Charles King and Mr. Thomas Gurgerfield are made and hereby appoynted Packers, Guagers and Searchers of all Porke and Beefe and other things whatsoever that are required of the said King, in the fore recited Act, and to have and receive the fees appoynted by the said Act, any thing in the said Act to the contrary conteyned notwithstanding.

II. *And whereas* the said King is required and commanded to find store roome in Charlestowne for all beefe and porke which shall be sent to him to be searched and packed, without charge, *Be it likewise enacted* that the said Thomas Gurgerfield is likewise hereby required and commanded to find and performe the same, and all other things whatsoever that are required of the said King, and to be liable to the same fine and forfeiture and under the same penalty as in that Act against the said King is provided.

III. *And whereas* the said King is required by the said Act to goe to every man's plantation and landing, *It is further enacted*, that if the said Charles King or Thomas Gurgerfield shall denye or refuse to performe the same as by that Act is required, he or they shall forfeit the sum of forty shillings, to be recovered by a warrant under the hand of any one or more Justices of the Peace, in like manner and forme as in an Act entituled An Act for the Tryall of Small and Meane Causes, is ordained and appoynted.

A. D. 1696.

Act No. 94
continued for
two years.Act No. 121
altered.None but
current money
to be received
for duties.Variations in
the value of
money.Vessels putting
in, in distress.

IV. *And be it allso enacted*, that an Act entituled An Act for ascertain-
ing the guage of Barrells, &c. be and is hereby continued in full force for
the full term of two years after the ratification of this Act, any limitation
or other thing therein conteyned to the contrary notwithstanding.

V. *And whereas* by an Act entituled an Additional Act for the better
collecting and receiving the duties and rates upon Liquors, &c. ratified in
open Assembly the 16th day of July, 1695, and since continued, it is
amongst other things enacted that all liquors for which the duty was paid
and the same againe transported from this part of this Province in six
months after importation, that he or they soe transporting as aforesaid
shall receive from the Treasurer the whole draw-back or duty on the
liquors soe imported and exported as aforesaid,

Be it therefore enacted, that he or they soe transporting the liquors
soe imported and exported, shall receive from the publick Receiver
or Treasurer halfe the duty or draw-back and noe more, having first ob-
tained a permitt from the said Treasurer to transport the same; any thing
in the said Act to the contrary notwithstanding. And it is allso required
and commanded that the public Receiver doe and hereafter shall from
time to time receive all moneys and impositions raised by any Act what-
soever, in the currant money, or that shall be currant money of this part
of this Province, and not otherwise.

VI. *Provided*, and it is hereby intended, that the said Receiver shall
and he is hereby oblidge to give credit for the moneys that now he hath
or shall have in his hands, at the rise and advance of the moneys at the
same rate and value it shall be advanced.

VII. *And whereas* severall shipps and vessells have and hereafter may
by stormes or otherwise be in distress and soe necessitated to put into and
unload in the harbour, *Be it allso enacted* *** [The next four lines of the
original Act are so mutilated that I could not copy them.—Ed.] *** all
manner of liquors and goods whatsoever, and the liquors so landed, and
the same again transporte in the foresaid vessell, and not otherwise, the
master or owner or merchant shall from the Treasurer the whole draw-
back and duty receive, any thing in this Act conteyned to the contrary
notwithstanding.

*Read three times and ratified in open Assembly,
this 5th day of December, 1696.*

JOSEPH BLAKE,
JOSEPH MORTON,
STEPHEN BULL,
JAMES MOORE,
THOMAS CARY,
WM. HAWETT,
JOHN BERESFORD.

A. D. 1696

AN ACT FOR THE SETTLING OF PILOTAGE.

No. 149.

WHEREAS the want of Pilots, for the better security of shipp and of other vessells that may be intended into Ashley River, may greatly conduce to the prejudice of this hopeful Settlement, and for as much as there is no provision made for the same,

I. *Be it therefore enacted* by his Excellency William Earl of Craven, Pallatine, and the rest of the Lords and absolute Proprietors of this Province, by and with the advice and consent of the rest of the members of the Generall Assembly, now met at Charlestowne for the south west part of this Province, *And it is enacted* by the authority of the same, That John Cock, William Bradley and John Burningham, now of this Province, are hereby authorized, constituted and appointed to be Pilots of and for all and every the shipp and other vessells whatsoever that may happen and shall be designed to come into the said Ashley River; and the said John Cock, William Bradley and John Burningham and every of them, are hereby required to make it their business to look out for and repair on board and take care of and discharge the parts, place and charge of Pilots on and upon any and every shipp or vessell that shall be desirous to come into Ashley River aforesaid.

II. *And it is enacted* by the authority aforesaid, that if any person or persons that shall come designing to bring any shipp or vessell into the said river and shall or doe refuse to receive on board the said pilots or any of them as aforesaid, that nevertheless it shall or may be lawfull for the said pilot which shall come first to the said vessel without the Barr, and offer to take charge as pilot thereof, to ask, demand and receive of and from the master or commander of any and every such shipp or vessell, all and every the dues and payments as is hereafter expressed and provided, in as full and ample manner as if he had pilotted the said shipp or vessell into the said river.

III. *And it is further enacted* by the authority aforesaid, That if any shipp or vessell whatsoever shall happen to receive any damage, miscarry or be lost through the neglect, insufficiency or any other defect in or by such of the pilots as shall take charge of the said vessell, that then and in such case the said pilot or pilots soe taking charge shall answer for and make good all and every the damages and losses soe sustained and done as aforesaid.

IV. *And it is further enacted* by the authority aforesaid, That if any other person or persons not named in this Act, shall presume to undertake the care and charge of a pilot, and shall bring into the said river any shipp or vessell whatsoever, that he or they soe presumeing and undertakeing shall not have or receive any reward, but shall be and are liable to pay and make full satisfaction for all and every the damages and miscarriages that shall or may happen by such their presumption and undertakeing as aforesaid.

V. *And be it further enacted* by the authority aforesaid, That the master or commander of any and every shipp and vessell, for and in consideration of the pilotage of his shipp or vessell into Ashley River, shall pay unto him or them of the said pilots that shall take charge as aforesaid, such sum and sums of money as is hereafter expressed and appointed by this Act, as full and ample satisfaction to the said pilot for his care and charge, as well for the carrying out as bringing in of any shipp or vessell as aforesaid: that is to say, the master or commander shall pay unto the

Preamble.

Enactment.

Pilots appointed, and duties

Fees to be paid them if they offer to bring in a vessel.

Pilots liable for all damages happening to vessels under their charge.

Other persons undertaking to do duty of pilots to receive no reward and still be liable.

Rate of payment for Pilots in North Channel.

A. D. 1696

said pilot or pilots for any shipp or vessell of the draught or depth of seven feet or under in the water, that shall be brought into Ashley River or carried out through the north channel, the sum of fourty shillings of currant money of this Province, and for every shipp or vessell that shall draw more than seven feet and soe upwards into nine feet inclusively and noe higher, tenn shillings for every foot exceeding the said seven feet, together with the sum of fourty shillings abovesaid.

Rates of
payment for
South Channel.

VI. And for the better encouragement of the knowledge and use of the South Channell, *Be it enacted*, that every master and commander of any and every shipp or vessell shall pay unto the said pilot or pilots fourty shillings currant money of this Province for every shipp or vessell drawing seven feet water which he or they shall bring in or carry out through the South Channel aforesaid, and for every shipp or vessell drawing more than seven feet, twenty shillings for every foot exceeding the said seven feet, together with the sum of fourty shillings appointed for the bringing in of vessels into the South Channel drawing seven feet water as aforesaid, which payment shall be in full for bringing in and carrying out of any shipp or vessell as aforesaid. And if it soe happen that any shipp or vessell shall draw above seven feet as aforesaid, and that the draught soe amounting be not to a just foot or number of feet, then the overplus shall be paid in the equall proportion with each foot so exceeding the seven feet aforesaid.

Proviso.

VII. *Provided always*, and the true intent and meaning of this Act is, that no master or commander of any shipp or vessell whatsoever shall be obliged to pay the pilotage aforesaid unless the pilot or pilots shall without the Barr tender him or themselves or endeavour the same, as pilot of the said river, any thing in this Act conteyned to the contrary notwithstanding.

Payment how
to be enforced.

VIII. *And it is further enacted* by the authority aforesaid, That if the commander or master of any shipp or vessell shall neglect, refuse or deny to pay or secure to be paid all and singular the aforesaid sum or sums of money, in such case it shall and may be lawfull for the pilot or pilots aforesaid to attach the said commander or master, or his or their shipp or vessells, so that his said shipp or vessell shall be held or continued in the custody of the law, or the said commander or master, untill the said pilot or pilots shall be fully satisfied and paid or secured to be paid as aforesaid, together with all the costs that shall accrue by reason of the nonpayment as aforesaid.

Vacancies how
supplied.

IX. *And be it further enacted* by the authority aforesaid, That in case any of the pilots should die, goe off, neglect or refuse to officiate, or upon misdemeanor or any other defect, that it shall be in the power of the honorable the Governor for the time being to name and appoint another in his or their places that shall soe goe off, refuse or neglect his duty or office aforesaid, he and they giving such bond and security to the Publick Receiver as the pilots aforesaid named are obliged by this Act.

X. *And whereas* the aforesaid pilots, John Cock, William Bradley and John Burningham, have severally given sufficient security to the Publick Receiver for the time being, to keep for each of them respectively a good and able man to watch upon Sullivan's Island, which man shall observe and follow such orders and instructions as they from time to time shall receive from the Commissioners or any three of them, in performance of said watch, and that each of them severally will do or pay his proportion, viz. one third part of the charges or worke in keeping the publick watch house on Sullivan's Island in repaire. [The rest of this section mutilated.]

XI. *It is hereby enacted*, That the said pilots respectively shall take and receive from all masters or owners of all shippes and vessells which wholly belong or hereafter shall belong to the inhabitants of this Province, and that every master or owner as aforesaid shall pay to the said pilots respectively but halfe soe much as any master or owner of any other shipp or vessell is before by this Act obleiged and bound to pay, anything in this Act contained to the contrary notwithstanding, to that respective pilot which performes the duty and office of pilot as aforesaid. And that the said pilots shall each of them severally have the use and benefit of the publick watch house on Sullivan's Island soe long as they performe and execute the office of pilot according to the true meaning of this Act, without charge, the repaireing thereof as aforesaid excepted.

A. D. 1696.

Actual
inhabitants
only to pay
half pilot fees.

XII. And for the better encouragement of trade and masters and owners of vessells, *Be it enacted*, that noe tavern, punch house or public house keeper, or any other person whatsoever, shall trust any mariner or seaman then actually belonging to any shipp or vessel, for more than five shillings, nor shall any seaman as aforesaid be kept from his imploy, or masters or owners service, by any power or pretence whatsoever, for any debt contracted in any publick house or with any other person, more than five shillings, nor shall any Judge, Justice or Magistrate whatsoever give or grant any writts or warrants or process against any seaman belonging to any shipp or vessell, for any debt due to a publick house keeper or other person exceeding five shillings, and every publick house keeper or other person which shall give credit to any seaman as aforesaid for more than five shillings, shall loose the same.

No sailor liable
for a debt of
more than five
shillings.

XIII. And for the speedy determination of all differences between commanders and their seamen for matters between themselves, and also between saylors themselves, and between saylors and those which shall give them credit as abovesaid, *Be it enacted* by the authority aforesaid, that the right honourable the Governor, or the Governor for the time being, or the Chief Judge of the Court of Admiralty or any one of his assistants, with any other Justice of the Peace, have power and are hereby impowred to heare, judge and determine all such differences and matters and to give execution thereupon, soe that the matter in difference exceed not the sum of ten pounds.

Disputes of
seamen
how to be
determined.

XIV. *And be it further enacted*, That if any mariner or seaman actually belonging to any shipp or vessell- shall refuse to goe on board, run away, or absent himself for the space of twenty-four hours from his respective owner, master or shipp, which shall be taken, shall be at the instance of his master or owner committed to the Marshall of the Court of Admiralty, by him to be kept in close and sure custody till the vessell to which he doth belong shall be ready to sayle, then to be putt on board said shipp. And every mariner or seaman which shall absent himself or run away from the shipp and master to which he belongs, that shall not be taken before the vessell sayles to which he doth belong, shall from and after he shall be taken by his respective master or owner or his assignes or certain attorney, serve the full term and space of two yeares, after the manner of an indentured servant, to his master or his assignes.

Penalty for
seamen
deserting their
vessels.

XV. *And be it further enacted*, that this Act and every thing therein contained do continue in force two yeares and no longer.

Duration
of Act.

XVI. *And it is further enacted*, that William Smith, Esq. Mr. Jonathan Amory, Capt. Charles Basden, Mr. Joseph Ellicott, or any three of them, are hereby ordered and appointed Commissioners to give all such orders

Commissioners
appointed to
see Act
executed.

A. D. 1696.

and directions to the Pilots from time to time, and all other things as in this Act they are required and impowered to performe during the limitation of the same.

*Read three times, and ratified in open Assembly,
this 5th day of December, 1696.*

JOSEPH BLAKE,
JOSEPH MORTON,
STEPHEN BULL,
JAMES MOORE,
THOMAS CARY,
WILLIAM HAWETT,
JOHN BERESFORD.

No. 150. AN ACT to make currant Foreign Cognie, and to establish and settle the Weight thereof.

(Ratified March 10th, 1696-7. For two years. Expired. The original Act not now to be found.)

No. 151. A DECLARATORY AND ADDITIONAL ACT to provide Indifferent Jury-men in all Causes civil and criminal.

(Ratified March 10th, 1696-7. Repealed by Sec. 45, of the Act relating to Juries, passed August 20th, 1731. See also Act No. 119. The original Act not now to be found.)

No. 152. AN ACT to regulate the Election of Members of Assembly.

(Ratified March 10th, 1696-7. Repealed. See Act No. 231, sec. 13, and Act of Sept. 1721, Sect. 44. The original of the present Act not now to be found.)

No. 153. AN ACT for the Limitations of Actions, and for the Avoiding and Preventing Suits in Law.

(Ratified March 10th, 1696-7. Repealed by Sect. 18 of the Act of Dec. 12, 1712, for Settling Titles, &c. The original of the present Act not now to be found.)

A. D. 1696.

**AN ACT FOR THE MAKING ALIENS FREE OF THIS PART OF THIS PROVINCE,
AND FOR GRANTING LIBERTY OF CONSCIENCE TO ALL PROTESTANTS.**

No. 154.

*(The original Act not now to be found. The present Act copied from
Trott's Laws of Carolina, page 61.)*

WHEREAS Prosecution for Religion hath forced some Aliens, and trade and the fertility of this Colony has encouraged others to resort to this Colony, all which have given good testimony of their humble duty and loyalty to his Majesty and the Crown of England, and of their fidelity to the true and absolute Lords and Proprietors of this Province, and of their obedience to their Laws, and their good affections to the inhabitants thereof, and by their industry, diligence and trade have very much enriched and advanced this Colony and Settlement thereof;

I. *Be it enacted*, by his Excellency, William Earl of Craven, Pallatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, That all Aliens, male and female, of what nation soever, which now are inhabitants of South Carolina, their wives and children, shall have, use and enjoy all the rights, privileges, powers and immunities whatsoever, which any person born of English parents within this Province may, can, might, could, or of right ought to have, use and enjoy; and they shall be from henceforth adjudged, reputed and taken to be in every condition, respect and degree, as free to all intents, purposes and constructions, as if they had been and were born of English parents within this Province.

II. *And it is further enacted, declared and ordained* by the authority aforesaid, That they and every of them shall be, and are hereby enabled and adjudged able, to all intents, constructions and purposes whatsoever, as well to demand, challenge and ask, take, retain, have and enjoy any mannors, lands, tenements and hereditaments, and all other privileges and immunities belonging to any person born within this Province as aforesaid, and to make their resort or pedigree as heirs to their ancestors, lineal or collateral, by reason of any descent, remainder, reverter, right or title, conveyance, legacy or bequest whatsoever, which may or shall from henceforth descend, remain, revert, accrue or grow unto them or any of them; as also from henceforth to have, retain, keep and enjoy all mannors, lands, tenements or hereditaments which they or any of them have heretofore purchased and bought of and from the true and absolute Lords and Proprietors of this Province, or of and from any other person or persons to whom the Lords Proprietors have sold and granted the same, as fully, largely, liberally and effectually to all intents, constructions and purposes, as if they had been born of English parents within this Province; as also from henceforth to have, retain, keep and enjoy all mannors, lands, tenements and hereditaments which they or any of them may or shall have, by way of purchase or gift of any person or persons whatsoever; as also to prosecute, sue, maintain, aver and justify all and all manner of actions, suits and causes; and all other things to do as lawfully, liberally, freely and surely as if

Preamble.

All Aliens
inhabitants of
the Province to
enjoy the same
privileges as
those persons
born of English
parents.

And enabled to
enjoy lands.

And to claim
the same as
heirs, or by
their own
purchase.

A. D. 1696

All bargains
and sales of
land, &c.
heretofore
made, declared
valid in law.

they had been born of English parents within this Province, and as any other person born and derived of English parents within this Province, may lawfully in any wise do.

III. *And be it further enacted*, That all titles, bargains and sales of any lands, tenements and hereditaments which they or any of them have made to any person whatsoever, at any time heretofore, and all bargains, sales and conveyances of lands, tenements and hereditaments which any person hath made to them, or any of them whatsoever, are and are hereby made and declared to be good, substantial, firm and valid in law:—*Provided*, the titles to the said tenements, lands and hereditaments had been good in law if the seller and buyer had been both natural born subjects of the Kingdom of England, and not otherwise. *Provided always*, That no person whatsoever other than the persons herein expressly named, viz. John Thomas, Noah Royer jun. weaver, Jonas Bonhost wheelwright, Peter Poinsett, jr. smith, Isaac Mazyck merchant, James Gallopin sadler, Peter Poinsett sen. smith, Jeremiah Cottoneau cooper, Elias Bisset shammy-dresser, Peter Dugne shipwright, James Dubose merchant, James Lardant joyner, John Lebert merchant, Lewis Thisbou merchant, Daniel Durousseau shammy-dresser, Anthony Bourean gunsmith, Daniel Jovett sail-maker, Abraham Dupont, brazier, Anthony Bonneau sen. cooper, Nicholas De Longuemare jr. goldsmith, Phillip Norman smith, Peter Collin merchant, Moses Carion joyner, John Peteneau weaver, Augustus Mesmin gunsmith, Henry Perreneau merchant, Humphrey Torquet shipwright, Paul Torquet shipwright, Isaac Baton weaver, Peter Galliard blockmaker, Noah Serre weaver, Matline Guerin gardiner, Dr. Jacob Guerard, Peter Jacob Guerard goldsmith, John Guerard weaver, Charles Fromagett planter, Nicholas De Longuemare sen. watchmaker, John Anunt silk-throwster, Josias Dupree sen. merchant, Josias Dupree jr. shipwright, Cornelius Dupre planter, Lewis Du Tarque weaver, Nicholas Marant planter, Joseph Marboeuf apothecary, Reni Juin planter, George Juin planter, Lewis Juin planter, Peter Dutarque weaver, Daniel Fraizevent sen. weaver, Daniel Fraizevent jr. weaver, Peter Videau planter, Lewis Goudin planter, Solomon Bremare weaver, Anthony Poitevin sen. weaver, Anthony Poitevin jr. weaver, Peter Poitevin planter, Nicholas Bochetti planter, Abel Bochetti planter, Claudias Caroone planter, John Carriere cooper, Simon Vallentine merchant, ——— merchant, Jacob Mendis merchant, and Avila merchant, which have already petitioned the General Assemblies for the liberties, privileges and immunities aforesaid, shall have any benefit thereby, except such persons shall within three months next ensuing, petition in writing under their hands the right honourable Joseph Blake Esq. Governour and one of the true and absolute Lords and Proprietors of this Province, for the same.

IV. *And be it further enacted*, That no person now of age shall have any benefit by this Act until he or they shall have taken the following Oath, viz.

Oath of
Allegiance to
be taken.

I, A. B. do sincerely promise and swear that I will be faithful and bear true allegiance to his Majesty King WILLIAM. So help me God.

And certificate
thereof to be
given.

V. And for the better manifestation and proof of their having petitioned and taken the oath as aforesaid, the Right Honourable the Governour shall give every person which shall petition, a certificate of his having so done, and every Justice before whom every person shall take the oath aforesaid, shall give that person a certificate of his having so done, which certificate shall be recorded in the Secretary's office, and thereupon the Governour shall, under the seal of the Province, give such person a certificate of his being qualified for the benefit of this Act; and no person

whatsoever which shall neglect or refuse to petition as aforesaid (except such as have already petitioned) or which shall neglect or refuse to take the oath aforesaid, within the time herein before limited, shall have the benefit of this Act. A. D. 1696.

VI. *And whereas* several of the present inhabitants of this country did transport themselves into this Province, in hopes of enjoying the liberty of their consciences according to their own perswasion, which the Royal King Charles the Second, of blessed memory, in his gracious charter was pleased to empower the Lords Proprietors of this Province to grant to the inhabitants of this Province for to encourage the settlement of the same, *Be it therefore enacted* by the authority aforesaid, That all Christians which now are, or hereafter may be in this Province (Papists only excepted) shall enjoy the full, free and undisturbed liberty of their consciences, so as to be in the exercise of their worship according to the professed rules of their religion, without any lett, molestation or hinderance by any power either ecclesiastical or civil whatsoever. *Always provided*, That they do not disturb the publick peace of this Province, nor disturb any other in the time of their worship.

*Read three times and ratified in open Assembly,
March 10, 1696-7.*

JOSEPH BLAKE,
JOSEPH MORTON,
STEPHEN BULL,
JOHN BERESFORD,
JAMES MOORE,
WM. HAWETT.

AN ACT TO SETTLE THE FORM OF CONVEYANCES FOR THE PURCHASE OF THE QUIT-RENTS OF LANDS PATENTED AT ONE PENNY PER ACRE. No. 155.

(The original Act not now to be found. The present Act is taken from Trott's Laws of South Carolina, page 64.)

WHEREAS the true and absolute Lords and Proprietors of the Province of Carolina, have by their commission under their hands and the Great Seal of the Province, empowered John Archdale, Esq. late Governour of Carolina, to sell Lands, reserving a small quit-rent of twelve-pence for one hundred acres, &c. And whereas no certain form for the discharge of the quit-rents of lands before granted hath hitherto either by Act of Assembly or otherwise been ascertained, notwithstanding several persons already have, and now are willing to buy the quit-rents of their lands already taken up, at the same rates and under the same reservations and considerations as other persons do buy land not before granted;

I. *Be it enacted* by his Excellency William Earl of Craven, Pallatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, *And it is enacted*, That all Plantations or tracts of Land formerly granted for the yearly quit-rent of one penny per acre, for

All Christians
(except Papists)
to enjoy liberty
of conscience.

Preamble.

Lands formerly
granted at 1d.
per acre, being
purchased at
40s. per 100
acres, shall be
acquitted of the
1d. per acre.

A. D. 1696.

which the owners, or any other persons in their behalf, have paid to the Receiver of the Lords Proprietors for their use, forty shillings for every hundred acres, or after that rate for any greater or lesser quantity, and for which new grants are already past with the reservation of twelve-pence quit rent or acknowledgement for every hundred acres, are and are hereby declared for ever acquitted and discharged of the said penny per acre quit-rent, and of and from all other services and charges, except such as are in the said new grants mentioned and reserved.

II. *And be it further enacted*, That for all Plantations or tracts of land formerly granted, or which shall hereafter be granted to any person for the yearly quit-rent of one penny per acre, &c. for which the owners or any other persons in their behalfs, are willing for discharge of the said quit-rent to pay to the Lords Proprietors, or to their Receiver, forty shillings for every hundred acres, or after that rate, the following Form of Grants, viz.

The form of a
purchase grant.

I, A. B, for and in consideration of do give and grant unto the said C. D. his heirs and assigns for ever, a Plantation containing acres of land, fully and clearly exonerated, acquitted and for ever discharged of and from the quit-rent in and by the before recited Grant reserved to be paid to the true and absolute Lords and Proprietors, he or they yielding and paying therefore unto the Lords Proprietors, their heirs or assigns, or to their Receiver by them or the major part of them appointed and authorized, on every first day of December, after the rate of twelve pence for each hundred acres, current money of this part of this Province of Carolina, in lieu of, and for all manner of services due to the Lords Proprietors as Lords of the Fee, at such place as shall be appointed by an Act, entituled, An Act to ascertain the Prices of Lands, the Form of Conveyances, and the manner of Recovering of Rents for Lands, and the Prices of the several Commodities the same may be paid in; shall be the unalterable Form of Conveyance for all such Lands, and shall be taken, deemed, held and adjudged good, substantial, firm and valid in law.—*Provided*, the last purchaser at the time of his purchase as aforesaid, had a good and lawful right and title thereto, and not otherwise.

The said Form
declared good
and valid in
law.

The Plat of
such purchased
lands to be
annexed to the
Grant.

III. And for the better distinction of all Plantations or Tracts of Land, or any parcel thereof, of which such grant as aforesaid shall be made, the first grant and plat shall be annexed to the new grant, or if the same hath been bought of any person which before that purchased the same from the Lords Proprietors, which cannot have the grant to annex as aforesaid, then the writing of conveyance by which he claimeth the same, shall be annexed to the said grant.

Continuance of
this Act.

IV. *And be it further enacted*, That this Act shall continue in force for and during the full term of five years after the ratification thereof, and that after the expiration of the aforesaid five years the same Form of Grants shall be granted without alteration till after publication of the Lords Proprietors intentions to alter the same, hath been made in Charles-town at least one whole year, before the alteration thereof.

*Read three times and ratified in open Assembly,
March 10, 1696-7.*

JOSEPH BLAKE,
JOSEPH MORTON,
STEPHEN BULL,
JAMES MOORE,
JOHN BERESFORD,
WILLIAM HAWETT.

A. D. 1698.

A DECLARATORY AND REPEALING ACT.

No. 156.

(Ratified March 10, 1696-7. The original Act not now to be found. By this Act No. 108 and 109 were confirmed, No. 122 was repealed, and No. 120 cited with some additions.)

AN ADDITIONAL ACT for the better Settling and Regulating of the Militia. No. 157.

(See last volume.)

AN ACT to settle a Maintenance on a Minister of the Church of England in Charlestown. No. 158.

(See last volume.)

AN ADDITIONAL ACT FOR THE POOR.

No. 159.

WHEREAS several of the persons nominated and appoynted Com-Preamble.
missioners by an Act entituled an Act for the Poor, ratified in open
Assembly the sixteenth day of March, one thousand six hundred ninety
five-six, are departed this life;

I. *Be it enacted* by his Excellency, John Earl of Bath, Palatine, and Commissioners
the rest of the true and absolute Lords and Proprietors of this Province, of the Poor
by and with the advice and consent of the rest of the Members of the appointed.
General Assembly, now met at Charlestown, for the South-west part of
this Province, That Mr. Joseph Croskeys, Mr. George Logan, Mr.
Charles Burnham, Mr. John Alexander and Mr. John Buckley are hereby
nominated and appoynted Commissioners for the Poor, any thing in the
said Act to the contrary notwithstanding, and they the said Commissioners
or any three of them shall perform all and every thing or things as the
former Commissioners in the said Act were commanded and appoynted;
under the penalty of five pounds each Commissioner, if they keep and
render not a fair and just accompt, as by the said Act is directed, one
half to the informer and the other half part to the use of the Poor, to be
recovered by bill, playnt or information, in any Court of Record in this
part of the Province, wherein no protection, delay or wager of law shall
be allowed or admitted of.

II. *And be it likewise enacted* by the authority aforesaid, That if any Case of
of the Commissioners aforesaid should depart this life or go off, the sur-Commissioners
viving and remaining Commissioners shall choose and elect one or more going away.
in the room of him or them departed or gone off as aforesaid, and him or
them so elected shall to all intents and purposes be Commissioner or
Commissioners, as if he or they had been nominated in this Act, and shall
perform all and every thing or things, and under the same fines and
forfeitures shall be, as the Commissioners herein nominated and
appoynted.

A.D. 1698.

Commissioners
may associate
with other
freeholders.

III. And if it shall so happen that the money given for the use of the Poor may not be sufficient for the relief of the same, *Be it further enacted* by the authority aforesaid, that the Commissioners aforesaid, together with seven reputable freeholders of Charlestown which they shall associate to themselves, shall have power and they are hereby impowered, upon their oaths, to assess and levy all such sum or sums of money upon all and singular the inhabitants of Charlestown, for the use of the Poor of the said Town, equally and indifferently, according to their estates, stocks and abilities. And the Commissioners aforesaid, or any three of them, by an order under their hands to any one or more Constables in Charlestown, which Constables are hereby required under the penalty of five pounds each Constable to perform the same, and to cause the same to be collected, which when collected they shall deliver to the Commissioners, to be disposed of by them to the Poor at their discretion, and a true and just accompt thereof shall keep and return as before is appoynted. And if any person or persons shall neglect or refuse to pay their respective taxes or assessment, the Commissioners or any three of them shall by a warrant under their hands and seals to any one or more Constables of the said Town, who are hereby under the penalty of five pounds commanded to execute the same, to make distress upon the goods and chattels of every person so offending, which distress three days after taken they shall cause to be sold in Charlestown at a Publick Outcry, and the overplus, after the tax and charges are paid, to return to the owner.

Pauperseamen.

IV. *Whereas* several sick and lame seamen have been brought in and left here upon the charge of the publick, *Be it therefore enacted* by the authority aforesaid, that every master of any ship or vessel that shall bring any sick, lame or maimed seamen into this port, shall them here maintain and keep, and when they depart this port shall them carry off, or give sufficient security to the Commissioners aforesaid for the maintenance and charges of the sick as aforesaid; and every master as aforesaid that shall neglect or refuse the same or any part thereof, shall forfeit the sum of fifty pounds for the use of the Poor, to be recovered by bill, playnt or information in the Court of Pleas. And every person that shall entertain any sick, lame or maimed seaman as aforesaid, without the knowledge and consent of the Commissioners or any three of them, shall keep and maintain him or them so entertained at their own proper cost and charge. *Provided*, and it is hereby intended, that if the sick or lame as aforesaid shall not be in a condition to be carried off without danger of their lives, of which the Commissioners as aforesaid or any three of them are judges, then the master of said vessel, and not otherwise, shall pay or cause to be paid into the hands of the Commissioners towards the maintenance and support of such persons as aforesaid, all the wages that shall be due to the said person, and no more, any thing herein contained to the contrary notwithstanding.

*Read three times, and ratified in open Assembly,
the 8th day of October, 1698.*

JOSEPH BLAKE,
STE. BULL,
THOMAS CARY,
JAMES MOORE,
WM. HAWETT.

NOTE.—Repealed by Sect. 16 of the Poor Law of Dec. 12, 1712. See also the Additional Act relating to the Poor, May 19, 1758.

A. D. 1698.

AN ACT for making and mending Highways and Paths, and for cutting
of Creeks and Water-courses. No. 160.

(Ratified October 8th, 1698. See last volume.)

AN ACT TO PREVENT DECEITS BY DOUBLE MORTGAGES AND CONVEY-
ANCES OF LANDS, NEGROES AND CHATTELS, &c. No. 161.

WHEREAS the want or neglect of Registering and Recording of Sales, Conveyances and Mortgages of Lands and other Goods and Chattels, hath encouraged and given opportunity to several knavish and necessitous persons to make two or more sales, conveyances and mortgages of the same plantation, negroes and other goods and chattels, the first sale, conveyance and mortgage being in force and not discharged, to several persons for considerable sums of money more than the same is worth, whereby buyers of plantations, and lenders of money upon second or after-mortgages, do often loose their money, and are put to great charges in suits of law and otherwise; For remedy whereof, Preamble.

I. *Be it enacted* by His Excellency John Earl of Bath, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the Members of the General Assembly, now met at Charlestown for the south-west part of this Province, That that sale, conveyance or mortgage of lands and tenements, except original grants, which shall be first registered in the Register's office in Charlestown, shall be taken, deemed, adjudged, allowed of and held to be the first sale, conveyance and mortgage, and to be good, firm, substantial and lawful in all courts of judicature within South Carolina, any form or other sale, conveyance or mortgage of the same land not before registered notwithstanding; and that that sale or mortgage of negroes, goods or chattels which shall be first recorded in the Secretary's office in Charlestown, shall be taken, deemed, adjudged, allowed of and held to be the first mortgage, and good, firm, substantial and lawful in all courts of judicature within South Carolina, any former or other sale or mortgage for the same negroes, goods and chattels not recorded in the said office notwithstanding. The sale or mortgage first recorded to be adjudged the first sale.

II. *Provided* always, *And it is further enacted* by the authority aforesaid, That nevertheless if it so happen there be more than one mortgage at the same time, by any person or persons to any person or persons, of the same lands and tenements, negroes, goods and chattels, the several mortgagees which have not registered or recorded their mortgages, their heirs, executors, administrators or assigns shall have power to redeem any former mortgage or mortgages registered, upon payment of the principal debt, interest and cost of suit, to prior mortgagee or mortgagees, their heirs, executors, administrators or assigns. And every person or persons, which shall mortgage the same lands, tenements, negroes, goods or chattels a second time, former mortgage being in force and not discharged, shall have no power or liberty of redemption in equity or otherwise. Former mortgages registered may be redeemed by second mortgagees.

III. *Provided* also, That nothing in this Act contained shall be construed, deemed, or extended to bar any widow, of any mortgage of any lands or tenements, from her dowry and right in or to the said lands, who Dower saved to the widow who did not legally join her husband in a mortgage.

A. D. 1698.

Mortgages not
recorded
before the 1st
of June, 1699,
how deemed.

did not legally joyn with her husband in such mortgage, or otherwise bar or exclude herself from such her dowry or right.

IV. *And be it further enacted*, That every prior buyer or mortgagee of any lands, tenements, negroes, goods or chattels before this Act, which shall not at some time before the first day of June, one thousand six hundred ninety and nine, register or record his title and mortgage as aforesaid, (if after that time a second sale, or conveyance, or mortgage be registered or recorded as aforesaid before the prior) shall be deemed, taken and held as a second buyer or mortgagee.

Penalty on the
Register or
Secretary.

V. *And be it further enacted*, That if the Register or his deputy, or the Secretary or his deputy, shall certify under his hand, or their hands, that no sale, conveyance or mortgage of any particular parcels of land or tenements, or of any particular negro, goods or chattels, by any particular person, is registered in their respective office, when at the same time there is such a registry or record in their respective office, such Register or his deputy, or Secretary or his deputy, shall forfeit and pay to such person who made enquiry, and who is damaged by reason of such false certificate by him made as aforesaid, all his damages and costs of suit, which he shall sustain by reason of any second mortgage.

*Read three times, and ratified, in open Assembly,
October 8th, 1698.*

JOSEPH BLAKE,
STEPHEN BULL,
THOMAS CARY,
JAMES MOORE,
WILLIAM HAWETT.

No. 162. AN ACT for settling a Watch in Charlestown, and for preventing of Fires.

(Ratified October 8th, 1698. *See last volume.*)

No 163.

A REVIVING, CONTINUING AND REPEALING ACT.

BE IT ENACTED by his Excellency John Earl of Bath, Palatine, and the rest of the true and absolute Lords Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south west part of this Province, *And it is enacted* by the authority of the same, That an Act entituled An Act for the Tryal of Small and Mean Causes, ratified in open Assembly the fifteenth day of October, one thousand six hundred ninety two, and an Act entituled An Act for making sufficient Fences and keeping the same in repair, ratified in open Assembly the twentyeth day of June, one thousand six hundred ninety four, be and are hereby revived, enacted to be in force and continued, any limitation or other thing in the said Acts, or any other Acts to the contrary, contained notwithstanding.

II. *And it is also enacted* by the authority aforesaid, That an Act entituled, An Act for the destroying of Unmarked Cattle, ratified in open Assembly the sixteenth day of March, one thousand six hundred ninety

five-six, be and is hereby revived, enacted to be in force, and continued for and during (from and after the ratification hereof) the full time of two years, and from thence to the first session of the next General Assembly after.

A. D. 1693.

III. *And be it likewise enacted* by the authority aforesaid, That an Act entituled, An Act to prevent Marriners and Seamen running into Debt, ratified in open Assembly the sixteenth day of March, one thousand six hundred ninety five-six—an Act entituled, An Act for the better settling and regulating of the Militia, ratified in open Assembly the second day of March, one thousand six hundred ninety five-six,—and an Act entituled, An Additional Act for the better settling and regulating the Militia, ratified in open Assembly the tenth day of March, one thousand six hundred ninety six-seven, are hereby revived, continued and enacted to be in full force for and during the full time of three years from and after the ratification hereof. Provided allways, and it is hereby enacted, that the two last paragraphs or sections, excepting one, of the said Act for the better settling and regulating the Militia, are hereby repealed, made null and void, any thing therein or in this clause contained to the contrary notwithstanding.

IV. *And it is further enacted* by the authority aforesaid, That an Act entituled, An Act for the Registering of Births, Marriages and Burials, ratified in open Assembly the sixteenth day of March, one thousand six hundred ninety five-six, is hereby revived, enacted to be in force and continued for and during (from and after the ratification hereof) the full time of four years, and from thence to the first session of the next General Assembly after.

V. *And whereas* in the last paragraph or section except one in the afore recited Act, it is there exprest that the heirs, executors and administrators of the late Register shall within thirty days after demand deliver all the records, books and papers, etc. It is hereby declared that every clause, word and sentence in the said paragraph of the fore recited Act, is void, repealed and of none effect, to all intents and purposes whatsoever; any thing in the foregoing clause contained to the contrary notwithstanding.

VI. *And that* all records and papers belonging to the said Register's office may be delivered to the succeeding Register as often as occasion shall require, *It is further enacted* by the authority aforesaid, that the late Register or any succeeding Register, his or their heirs or assigns, shall within thirty days after demand by the Register for the time being made, deliver all the records, books and papers belonging to the same, which shall any ways come to his or their hands or knowledge, upon the pain and forfeiture of fifty pounds, to be levied upon his or their goods and chattels or estate, by due course of law, and execution gained by process in the Court of Pleas by virtue of this Act, one moiety to be paid to the Publick Receiver for the publick use of the country, and the other moiety to him or them that will sue for the same. *Provided*, and it is hereby intended, that this clause continue in force four years from and after the ratification of this Act, and from thence to the first session of the next General Assembly after, and no longer.

VII. *And it is further enacted* by the authority aforesaid, That an Act entituled, An Act for the Settling of Pilotage, ratified in open Assembly the fifth day of December, one thousand six hundred ninety six, is hereby confirmed, continued to be and remain in full force for and during the full term of two years after the ratification of this Act, and to the first session of the next General Assembly after.

VIII. *And whereas*, John Cock, William Bradley and John Burningham, were severally bound to keep each of them respectively a good and able man to watch on Sullivan's Island, and several other matters and

A.D. 1698. things respectively in that Act required and commanded to perform, *Be it therefore enacted* by the authority aforesaid, that the said John Cock and John Burningham are hereby further required and commanded to find and perform the same, and all other matters and things whatsoever that are required in the said Act, and be lyable to the same fine and forfeiture and under the same penalty as in that Act against the said Cock, Bradley and Burningham is provided.

*Read three times and ratified in open Assembly,
this 8th day of October, 1698.*

JOSEPH BLAKE,
STEPHEN BULL,
THOMAS CARY,
JAMES MOORE,
WM. HAWETT.

No. 164.

AN ACT FOR THE ENTRY OF VESSELS.

(This Act being much mutilated in the original manuscript, is copied from Trott's Laws of South Carolina, page 68.)

Enactment.

BE IT ENACTED by his Excellency John Earl of Bath, Palatine, and the rest of the true and absolute Lords and Proprietors of the Province of Carolina, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestowne for the South-West part of the said Province, *And it is enacted* by the authority of the same, that all and every master or commander of any ship or vessel whatsoever, which shall arrive into any harbour or place within that part of this Province that lies South and West of Cape Fear, before he or they trade with any person or persons whatsoever within the limits aforesaid, or do unload or land any goods, wares or merchandizes (perishable green fruit or live creatures only excepted) shall within the space or time of forty-eight hours after his or their coming to an anchor, repair unto and wait upon the Right Honourable the Governour for the time being, or the person by him appointed for that purpose, and present his or their permit, passports, coquets or clearings, as by the Acts of Navigation are required in his Majesty's plantations in America; and the said master or commander of any such ship or vessel, shall likewise within the space of twenty-four hours after his or their waiting upon the Governour or the person by him appointed as aforesaid, enter into bond in the Secretary's Office, with two sufficient sureties inhabitants of this part of the Province, in the penalty of one thousand pounds, payable to the Governour for the time being, with the condition following:

That all masters of vessels do wait on the Governour for the time being, within 48 hours after their arrival.

And in 24 hours after give bond in the Secretary's office.

With the following condition.

The condition of the above obligation is such, That if the above bounden A. B. nor his ship by or with the advice, consent, approbation or knowledge of the said A. B. do not on her next voyage depart this port and government without license first had and obtained from the Governour for the time being, for his said ships so doing, and do not at his or her departure from this port and government, take on board and carry away or suffer to be taken on board and carried away, any person or persons whatsoever inhabiting or residing in this part of this Province, without license first had and obtained from the said Governour, except

such as are excepted in an Act entituled, *An Act for the Entry of Vessels*, that then the above obligation to be void and of none effect, otherwise to be and remain in full force and virtue: Upon pain and forfeiture of fifty pounds current money of this Province, upon every master or commander of such ship or vessel which shall refuse or neglect to wait upon the Governour and enter into bond as aforesaid.

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II. *And be it further enacted* by the authority aforesaid, that all and every person whatsoever which do sell, buy, barter, bargain, agree, or otherwise contract directly or indirectly with any master or other persons arriving in any part of this Province, for any goods, wares and merchandize whatsoever, imported in such ship or vessel as aforesaid, before the master or commander of such ship or vessel have waited upon the Governour for the time being, or such person as he shall appoint, and have entered into bond in the Secretary's Office with condition as aforesaid, every such person shall forfeit for every such offence the sum of one hundred pounds current money of this Province, and all bargains or contracts made as aforesaid, are hereby declared null and void.

Penalty on any person that shall buy, sell or contract with any master before he hath waited on the Governour.

III. *And be it also enacted* by the authority aforesaid, That all and every master or commander of any ship or vessel whatsoever, shall within twenty-four hours after their ship or vessel coming within the Barr of Ashley River, (wind and weather permitting) bring, or cause to be brought, his or their ship or vessel to an anchor before Charlestown to the Northward of the fortification, upon the penalty and forfeiture of five pounds for every tide his or their ship or vessel is not brought to an anchor before Charlestown as aforesaid.

Every vessel within 24 hours after coming over the bar, to be brought to an anchor, and where.

IV. *And be it likewise enacted* by the authority aforesaid, That the owners, master or commander of any ship or vessel built within this Government, being of the burthen of six tons or above, shall before any goods, wares or merchandize be put in any such ship or vessel, enter into bond as aforesaid, on the forfeiture of fifty pounds current money. Two thirds of all such penalties and forfeitures aforementioned, shall be for the public use of this Province, to be disposed of as the Assembly for the time being shall think fit, and the other third part to him or them that will sue for the same, to be recovered in any Court by action of debt or information, wherein no protection, wager of law or delay shall be allowed.

Penalty on the master of any vessel built within this Government that shall take on board any goods before he enter into bond.

V. *And be it further enacted* by the authority aforesaid, that all and every person or persons capable of contracting debts, who have, may or shall reside or inhabit within the limits of this Government the space or time of thirty days (mariners or seamen actually belonging to vessels, children, and women whose husbands are within this Government, excepted) before he or they obtain a ticket to go from this part of this Province, shall set up his or their names in the Secretary's Office one and twenty days, or shall give bond in the said office with two sufficient sureties, of the penalty of one thousand pounds payable to the Right Honourable the Governour, or the Governour for the time being, with the condition following:

All persons capable of contracting debts shall set up their names in the Secretary's Office one and twenty days, before they obtain a ticket to go off, or shall give bond in £1000.

The condition of the above obligation is such, that if the above bounden A. B. C. D. or either of them, their or either of their heirs, executors or administrators, shall and do, (after by due course of law judgment is obtained for the same) well and truly pay or cause to be paid all and every debt and debts, sum and sums of money, goods and chattles, which shall be owing by and recovered from the above E. F. and which the said E. F. shall be under-written for in the Secretary's Office aforesaid, in one and twenty days after the date of these presents, that then the above obligation

With the following condition.

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An alphabetical table of the names to be kept in the Secretary's Office.

No ticket to be delivered until bond be given, or the names have stood up 21 days.

No ticket to be delivered for a negro until oath be made of the property or power of the person to send him off.

Penalty.

All persons that set up their names shall take their tickets within 31 days.

He that under-writes a person shall file his declaration within 30 days.

The filing a declaration and leaving an attested copy at the dwelling house of the surety of a person under-written, shall be a sufficient summons.

The Governour to assign the ship bond or underwriting bond to the party grieved.

to be void and of none effect, otherwise to be and remain in full force and virtue.

VI. *And be it further enacted* by the authority aforesaid, that the Secretary for the time being, shall keep in his office a fair alphabetical table, to which all persons in office hours shall have free access, and the said Secretary or his deputy shall insert in the said table, all persons names that give bond, and at the request of any person or persons tendering the fee, shall write his or their names in the said table, and the day of the year and month when the same was done, and the Secretary nor his deputy shall not give or deliver unto any person or persons whatsoever, any license or ticket to go off until he or they have entered into bond with sufficient security as aforesaid, or that his or their names have stood written in the table aforesaid, one and twenty days without being under-written, or being under-written the same shall be discharged, nor shall the said Secretary or his deputy deliver to any person any license or ticket for any negro slave to go off, until oath be made before some Justice of the Peace, that the said slave or slaves are his or their own property, or that he or they have lawful power to send off the same, upon pain that the said Secretary, upon his or his deputy's default or neglect in any of the matters aforesaid, shall pay and satisfy every person or persons damnified, his and their damages sustained or to be sustained by reason thereof, with the cost of suit therein expended.

VII. *And be it further enacted* by the authority aforesaid, that all persons who shall set up their names in the Secretary's Office, and do not take out their tickets within thirty-one days after, shall be deemed as if their names had not been set up; and that all who under-writes any person or persons who sets up their names in order to go off, shall file his or their declaration, bill or plaint against such persons within thirty days after such under-writing, or the same shall be void and of none effect.

VIII. *And be it further enacted* by the authority aforesaid, if any person or persons who under-writes in the Secretary's Office any that have given bond in order to go off as aforesaid, that he or they filing his and their declaration, bill or plaint against such person in some Court of this Province, and leaving an attested copy of the same at the dwelling house of his or their security or securities twenty-one days before Court, the same shall be a sufficient summons for the person or persons, his and their attorney or attorneys, security or securities, to answer and defend the suit or action commenced, as fully and effectually as if the Sheriff or Marshall had actually served the principle with process, and the Judges and Justices of all Courts are hereby authorized and empowered to proceed to judgment and execution accordingly.

IX. *And it is hereby enacted*, that if the person or persons against whom judgment shall be obtained as aforesaid, his or their Attorney or Attornies, or securities, do not satisfy and pay all such judgment as shall be obtained against him or them, as also upon the breach of the condition of the ship bond aforesaid, that the Governour for the time being, at the request and cost of the party or parties agrieved, do assign to him or them the said ship bonds or under-writing bonds, or either of them, and give full power to sue and prosecute the same to judgment, which judgment being obtained, shall be and remain upon record, to the intent that all persons damnified shall be thereout fully answered and paid what shall be by them recovered.

X. *And it is further enacted and declared*, that the giving the said bonds aforesaid in the name of the Right Honourable the Governour, and the Governour for the time being, is only in trust and for the use of such

persons as are damnified, and do make recovery as aforesaid, and to no other use, intent or purpose whatsoever, and all Judges and Justices of all Courts, where judgments shall be obtained against any person underwritten in the Secretary's Office, or against any person upon breach of the condition of the under-written bond or ship bond, are hereby required and empowered to award execution upon the said judgment and judgments, or either of them, to all and every person or persons damnified, for so much money as he and they shall recover, together with his and their cost therein expended, until execution so awarded shall amount unto the full sum of the sum of the said judgment, if so much shall be recovered.

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The bonds aforesaid declared to be only in trust for the use of the persons damnified.

XI. *And be it further enacted* by the authority aforesaid, That all and every person and persons designing to go off, and performing all things by this act, or tending to do the same, his ticket being denied him or the delivery delayed, upon proof thereof before any two Justices of the Peace of this Province, the said two Justices of the Peace are hereby required and empowered to give such person or persons a license or ticket to go off, which shall be as good and effectual as any license or ticket signed by the Governour for the time being, any thing in this Act to the contrary thereof notwithstanding.

In what case any two Justices of the Peace may give a person a ticket or license to go off.

XII. *And it is further enacted* by the authority aforesaid, that if the two bonds in this Act mentioned, or either of them, be not put in suit within two years after their dates, they and every of them thereafter shall be null, void and of none effect.

The aforesaid bonds to be put in suit within two years after the dates.

XIII. *And be it further enacted*, that this Act and every thing therein contained shall continue in force three years and no longer.

Continuance of this act.

*Read three times, and ratified in open Assembly,
this 8th day of October, 1698.*

JOSEPH BLAKE,
STEPHEN BULL,
THOMAS CARY,
JAMES MOORE,
WILLIAM HAWETT.

NOTE.—Continued by several Acts and made perpetual by Act of December 12, 1712. See also an additional Act of December 18, 1739.

AN ACT FOR ASCERTAINING PUBLIC OFFICERS FEES.

No. 165.

FORASMUCH as all exactions, extortions and corruptions are and ought to be odious and prohibited in all well governed Kingdoms, Commonwealths and Provinces whatsoever,

I. *Be it enacted* by his Excellency, John Earl of Bath, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the Generall Assembly, now met at Charlestowne, for the south-west part of this Province, *And it is enacted* by the authority of the same, That no publick officer or person whatsoever shall demand or require any sum of money, fee or reward, for any matter, business or thing belonging to his or their respective office or place, other than such and so much fees as are hereafter in the respective table of fees hereunto annexed sett down, limited and appoynted, upon the forfeiture of one shilling

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for every penny he or they shall take and receive for any business, thing or matter relating to his or their office or offices, more than is by this Act sett down and appoynted, the one moiety of the said forfeitures to be paid to the Commissioners of the Poor for the use of the poor, and the other moiety to the party grieved which will sue for the same within the year after the receipt of such money or thing; all which forfeitures under forty shillings shall be recovered before any one Justice of the Peace, as is directed by an Act entituled, An Act for the Tryal of Small and Mean Causes, and all above forty shillings to be recovered by original writt, bill, playnt or information, in any of the Courts of Records within this Province, in which suit as aforesaid no wager of law, essoign, privilege, protection, or any other delay, shall be allowed or admitted.

II. *And be it further enacted* by the authority aforesaid, That if it do happen that any publick officer or person shall in execution of his or their respective offices or places, do any business or thing or matter relating to his said office or place for which a certain fee is not sett down, limited and appointed in the table of fees hereunto annexed, in such case the said officer or person shall take such and so much fee as shall be thought reasonable, appoynted and limited by any two Justices of the Peace of this Provincc, wherein the said Justices of the Peace are uninterested, who are hereby authorized to appoint and limitt the same; and no officer or person shall take or receive any or greater fee or thing for any business, matter or thing for which a certain fee is not appoynted in the table of fees hereunto annexed, before the same be appoynted and limited as aforesaid, upon the pain of the forfeiture of twenty pence for every penny he or they shall so demand, receive and take, the said forfeiture to be to the same use and recovered in the same manner and method as the forfeitures before by this Act are ordained and appoynted. And every publick officer or person shall within twenty days after the ratification hereof sett up and constantly keep a fair table of the respective fees belonging to his or their respective office, in such place as they usually execute the said office, upon pain of the forfeiture of twenty shillings for every day they shall neglect as aforesaid, the said forfeiture to be to the same use and recovered in the same way, manner and method as the forfeitures before by this Act are ordained and appoynted.

III. *And be it further enacted* by the authority aforesaid, That it shall and may be lawful for all and every officer and officers in this Act mentioned, to take his and their fees in the following table sett down in lyon dollars, or in pieces of eight weighing thirteen penny weight, at five shillings the piece; any law, use or custom to the contrary notwithstanding.

IV. *And be it further enacted* by the authority aforesaid, That this Act and every thing therein contained do continue in force three years and no longer.

THE HON. THE GOVERNOUR'S FEES.

	L.	S.	D.
For every Grant for Land, signed or to be signed, for 500 Acres or under,...	00	10	00
For every Grant signed or to be signed for more than 500 Acres,.....	01	00	00
For signing the dispatch of every Vessel,.....	00	10	00
For signing a Testimonial,.....	00	10	00
For signing a Marriage Lycense,.....	01	00	00
For signing Letters of Administration for an Estate above twenty pounds,.....	01	00	00
For signing a Warrant of Appraisement,.....	00	05	00

	L.	S.	D.	A. D. 1698.
For signing Letters of Administration for an Estate under twenty pounds,.....	00	05	00	
For signing the Probat of a Will,.....	00	10	00	
For signing a Warrant for Land,.....	00	02	06	
For an Injunction in Chancery,.....	01	00	00	
For signing a Decree in Chancery,.....	00	10	00	
For a Lyeense to retail Spirits distilled here,.....	00	06	00	
For a Certificate for a Ship or Vessel under thirty tunns, by the rule required by the late Act of Navigation,.....	00	05	00	
For all above,.....	00	10	00	
For signing a Ticket for persons capable of contracting debts,.....	00	02	06	

THE JUDGES OF THE COURT OF PLEAS FEES, AND THE CLERK'S FEES
BELONGING TO THE SAID COURT.

	L.	S.	D.
For a pair of Writts,.....	00	04	00
For filing a Declaration or Plea and Warrant of Attorney,.....	00	02	09
For a Copy of a Declaration or Plea attested,.....	00	01	00
For a Subpoena,.....	00	01	03
For a Retraxet,.....	00	01	00
For a Scire Facias,.....	00	02	06
For entering Judgment or Respitt,.....	00	01	00
For entering a Rule of Court,.....	00	00	09
For swearing every Evidence,.....	00	00	06
For the Venire to every Action that goes to the Jury,.....	00	01	06
For a Writt of Enquiry,.....	00	02	06
For a Replevin and Bond,.....	00	03	09
For entering an Action in the Judge's book that goes to the Jury,.....	00	05	00
For reading a Bond or other paper,.....	00	01	00
For taxing Cost,.....	00	03	04
For Execution,.....	00	02	06
For every Special Court and attendance thereon,.....	01	00	00
For searching the Records of the Court,.....	00	01	00
For entering Satisfaction,.....	00	01	00
For a Copy of a Record of the Court attested,.....	00	01	00
For the allowance of a Writt of Error,.....	00	05	00
For Bail taking before the Judge,.....	00	05	00
For Confessing Judgment,.....	00	01	03
For admission of any person to be an Attorney of the Court,.....	01	00	00
For fileing the Writt returned by the Marshal,.....	00	01	00
For fileing a copy of Bill, Bond, or other writing,.....	00	01	00
For entering Verdict of the Jury,.....	00	01	00
For a Bond from him who sueth by letter of Attorney, to pay cost and damage if cast,.....	00	02	06

ATTORNY'S FEES BELONGING TO THE COURT OF PLEAS.

	L.	S.	D.
For Retaining Fee,.....	00	05	00
For Drawing and Ingrossing a Declaration,.....	00	04	00
For a copy of the Declaration,.....	00	01	00
For drawing a Warrant of Attorney,.....	00	01	00
For a Plea or Demurrer, or any other pleading thereupon,.....	00	05	00
For Fee upon Tryal, Writt of Enquiry, Writt of Wast, or other motion,.....	00	05	00
For Taxing Costs and taking out Execution, or Fee at ending,.....	00	02	06
For attending Justices of Peace to take Depositions from sick persons and others departing this Settlement,.....	00	05	00
For the Attorney to pay the Jury,.....	00	04	00
For drawing a copy of a Bond or other paper declared upon,.....	00	02	06

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THE REGISTER'S OF BIRTHS, MARRIAGES AND BURIALS FEES.

	L.	S.	D.
For registering every Birth,.....	00	01	03
For registering every Marriage,.....	00	01	03
For registering every Burial,.....	00	01	03
For searching the Registry,.....	00	00	07½
For every copy of the Register with a certificate,.....	00	01	03

THE UNDER SHERIFF'S OR MARSHALL'S FEES.

	L.	S.	D.
For summoning a Special Court of Pleas, and finding a sufficient Dinner for Judges, Jury and Attendance, with wine and other liquors,.....	02	00	00
For serving Writts,.....	00	04	00
For returning the Writts,.....	00	00	09
For Bail Bond,.....	00	02	06
For going by land or water, each mile,.....	00	00	03
For summoning the Jury and returning the Venire each Action tryed,.....	00	01	06
For calling each Action,.....	00	00	04
For serving a Subpœna,.....	00	01	03
For serving an Execution on body or goods,.....	00	03	00
For Poundage, each pound, for any sum of tenn pounds or under, if the goods be sold,.....	00	01	00
For Poundage, each pound, for any sum above tenn pounds, if the goods be sold,.....	00	00	08
For returning and fileing Execution,.....	00	00	06
For serving a Replevin,.....	00	02	06
For diet to prisoners per diem, allowing bread and water,.....	00	00	06
For a copy of a Commitment,.....	00	01	03
For waiting upon any person upon Habeas Corpus, each day,.....	00	02	06
For each person presented and prosecuted thereon,.....	00	01	06
For each person indicted,.....	00	02	00
For each person quit by Proclamation,.....	00	01	00
For serving a Subpœna in Chancery, besides mileage,.....	00	01	06

THE REGISTER'S FEES.

	L.	S.	D.
For registering a Deed of Sale, if it contains one side of paper,.....	00	02	06
If more,.....	00	05	00
For registering a Lease for Land, if it contain one side of paper,.....	00	02	06
If more,.....	00	05	00
For registering a Grant for Land,.....	00	02	06
For registering a Letter of Attorney,.....	00	02	06
For registering a Landgrave or Cassick's patten,.....	00	10	00
For registering any other writing relating to the Register's office that are not here specified,.....	00	01	03

THE PROVOST MARSHAL'S FEES.

	L.	S.	D.
For serving an Order of Council on shore, in criminal matters and not other-ways,.....	00	02	06
For serving an Order of Council on board ship,.....	00	05	00
For the Commitment of any person,.....	00	01	00
For going and returning per water, per mile,.....	00	00	03
For the seizure of any Ship or Vessel,.....	00	10	00
For attendance on board each day,.....	00	02	06
For the summoning a Special Court,.....	01	00	00

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THE SECRETARY'S FEES.

	L.	S.	D.
For reading a Petition or other writing.....	00	01	03
For entering an Order thereupon.....	00	01	03
For the copy of an Order.....	00	01	03
For filing a Petition.....	00	00	07½
For a Commitment by Council.....	00	02	06
For a Release.....	00	01	03
For a Copy out of the Records.....	00	02	06
For recording any paper or writing.....	00	02	06
For a Warrant for Land.....	00	02	06
For filing Surveyor's Certificates.....	00	00	07½
For a Grant for Land, with the Seal.....	00	10	00
For a Bond.....	00	02	06
For a Letter of Administration and Bond.....	00	05	00
For a Warrant of Appraisement.....	00	02	06
For the Writing a Probat of a Will.....	00	05	00
For the Entry and Bond of every Ship and Vessel.....	00	05	00
For the Dispatch of every Ship and Vessel.....	00	05	00
For a Caveat.....	00	02	06
For writing a Ticket to go off for those that are able to contract Debts, and Negroes.....	00	01	03
For every Underwriting Bond.....	00	02	06
For entering every man's name upon arrival.....	00	00	07½
For a Warrant of Contempt.....	00	02	06
For a Recognizance.....	00	02	06
For an Underwriting.....	00	00	07½
For a Testimonial with a Seal.....	00	10	00
For filing a Bill in Chancery.....	00	02	06
For a copy of a Bill or Answer in Chancery, per sheet.....	00	00	06
For filing an Answer in Chancery.....	00	01	00
For a Subpoena.....	00	02	06
For an Injunction in Chancery.....	00	05	00
For a Certificate for a Ship or Vessel under thirty tons, by the rule, according to the late Act of Navigation.....	00	05	00
For all above.....	00	10	00
For a Decree in Chancery.....	00	05	00
For a Warrant and Commitment from the Chancery.....	00	02	06
For every Search.....	00	01	03
For recording of a Will.....	00	05	00

THE CLERK OF THE CROWN AND CLERK OF THE PEACE FEES.

	L.	S.	D.
For reading a Petition or other Writing.....	00	01	03
For entering an Order thereupon.....	00	01	03
For a copy of said Order.....	00	01	03
For Writing a License to sell Wine or Punch.....	00	05	00
For a Bond.....	00	02	06
For a Commitment.....	00	01	03
For a Release.....	00	02	06
For filing a Petition.....	00	00	07½
For a Warrant of Contempt.....	00	02	06
For any other Warrant.....	00	00	07½
For reading and filing a Recognizance.....	00	01	03
For an Order to keep a Bastard Child.....	00	01	06
For a Writ of Restitution.....	00	02	06
For every man indicted.....	00	05	00

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	L.	S.	D.
For an Arraignment, or Travers, or Release, or every one Quitt by Proclamation,.....	00	02	06
For entering a Plea,.....	00	02	06
For the Record of any Causes removed by a Certiory or Habeas Corpus into any other court, and the Return,.....	00	05	00
For Writing a Recognizance,.....	00	02	06

THE SURVEYOR GENERAL'S FEES.

	L.	S.	D.
For running out any quantity of Land per Warrant, per Acre,.....	0*	**	**
For Plot, Record of that Plot, and Certificate, and Copy of that Certificate,...	00	12	00
For an Attested Copy of the Plot,.....	00	02	06
For Recording of Land,.....	00	01	03
For running out of a Town Lott, with the Certificate, and Recording the same,...	00	10	00
For running out any lynes between party and party, or any other work wherein the Surveyor is employed as Surveyor, per day,.....	00	10	00

THE CORONER'S FEES.

	L.	S.	D.
For every Inquisition upon view of a Body, if a freeman,.....	01	10	00
For the Jury,.....	00	12	00
For an Inquisition on the Body of a servant,.....	00	10	00
For a pair of Writts,.....	00	04	00
For serving the Writts,.....	00	04	00
For Mileage, per mile,.....	00	00	03
For a Bail Bond,.....	00	02	06

THE JUDGE OF THE COURT OF ADMIRALTY'S FEES.

	L.	S.	D.
For signing and sealing every Warrant to seize a Vessel,.....	00	05	00
For a Warrant to Summon and Seize any person on board or on shore,...	00	02	06
For a Decree upon a Tryall of a Vessel,.....	01	00	00
For a Decree or Judgement against any person,.....	00	05	00
For every Subpœna,.....	00	02	06
For a Venire for a Jury,.....	00	05	00
For signing a Warrant of Commitment,.....	00	02	06
For signing every Bill of Sale,.....	01	00	00
For every Certificate certifying the Cause,.....	00	05	00
For a Testimonial to goe beyond Sea,.....	01	00	00

THE CLERK OF THE COURT OF ADMIRALTY'S FEES.

	L.	S.	D.
For writing every Warrant in the Admiralty,.....	00	02	06
For a copy of every Decree of the Court,.....	00	05	00
For the reading of every Libel and Answer to each,.....	00	02	06
For writing each Subpœna,.....	00	01	03
For entering a Decree or Order,.....	00	02	06
For every Deposition,.....	00	01	00
For a Venire for a Jury,.....	00	02	06
For filing any paper in the Admiralty,.....	00	02	06

THE MARSHAL OF THE ADMIRALTY'S FEES..

	L.	S.	D.
For seizing of every Ship or Vessel,.....	01	00	00
For seizing and bringing any person ashore from any vessel,.....	00	10	00
For every man kept on board for the safe custody of the Vessel and Rig- ging, per diem,.....	00	02	06
For taking a Bail Bond for security of a Vessel and appurtenances seized,....	00	05	00
For executing every Venire,.....	00	05	00
For executing every Subpoena if in Charlestown,.....	00	02	06
For mileage, three pence per mile,.....	00	00	03
For the Sale of Vessel and Goods, and paying the money, each pound,....	00	01	00
For every Witness sworn in Court,.....	00	01	03
For every Commitment and Release, each,.....	00	02	06
For the Dinner for the Court and Jury, with wine and other liquors,.....	03	00	00
For the Dyet of each person per diem,.....	00	00	06
For executing a Decree of Judgment upon a Man's Person,.....	00	05	00

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THE CLERK OF THE CHURCH OF ENGLAND'S FEES,

	L.	S.	D.
For the use of the Burial Cloth,.....	00	02	06
For his attendance at the Funeral,.....	00	02	06
For the Ground of each Grave,.....	00	03	09
For Attendance at Marriages,.....	00	02	06
For Attendance at Christenings,.....	00	02	06

THE SEXTON'S FEES.

	L.	S.	D.
For opening the Ground and digging the Grave,.....	00	03	09
For Ringing the Bell,.....	00	02	06

*Read three times and ratified in open Assembly,
the 8th day of October, 1698.**

JOSEPH BLAKE,
STEPHEN BULL,
JAMES MOORE,
WM. HAWETT,
THOMAS CARY.

Ratified and confirmed by the Lord Palatine and the rest of the Lords Proprietors of Carolina, by an Instrument under their hands and the Great Seal of the Province, dated Sept. 8th, 1714, as follows:

WE the Lord Palatine and the rest of the Lords Proprietors of Carolina, being fully satisfied with the many good reasons thereunto moving, and highly approving an Act, entituled *An Act for ascertaining Publick Officers Fees*, which was made in the year one thousand six hundred ninety-eight, when the Right Honourable John Earl of Bath was Palatine, and Joseph Blake Esq. Governour, and was signed by the said Governour, Stephen Bull, James Moore, William Hawett and Thomas Cary, Esqs., the then deputies, and is herein recited; which said Act being only temporary, was

The ratification
and
confirmation
of the Act for
officer's fees.

* Continued, see Reviving Act of Feb. 3, 1701-2; and the Reviving Act of May 8, 1708, sect. 1; and the Reviving and Repealing Act of April 9th, 1706; and the Reviving and Repealing Act of July 5, 1707; and the Reviving Act of May 7th, 1709; and the Reviving Act of June 28, 1711, which continues the present Act for two years.

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for its excellency and use continued by several Acts, and at last made perpetual by an Act, entituled *An Act to make perpetual several Acts therein mentioned*, which was made in the Year of our Lord one thousand seven hundred and twelve, when his Grace Henry Duke of Beauford was Palatine, and the Honourable Charles Craven Esq. Governour, and was signed and sealed by the said Governour, Charles Hart, Thomas Broughton, Ralph Izard and Samuel Eveleigh, Esqs. as deputies; now we do hereby approve, enact, ratify and confirm the said Act for ascertaining publick officers fees, hereafter following, viz :

An Act for ascertaining publick officers fees.

Forasmuch, &c.

And accordingly the said before recited Act for ascertaining publick officers fees, is hereby enacted, ratified and confirmed, as also so much of the said Act, entituled *An Act to make perpetual the several Acts therein mentioned*, as hath relation to the making perpetual the said recited Act for ascertaining publick officers fees. Given at St. James's, under our hands and the Great Seal of our Province, this eighth day of September, in the Year of our Lord one thousand seven hundred and fourteen.

{ *Magnum* }
{ *Sigillum* }

CARTERET PALATINE,
CARTERET FOR BEAUFORD,
FULWAR SKIPWORTH FOR
LORD CRAVEN,
M. ASHLEY,
J. COLLETON.

Trott, p. 73, says, repealed, see Temporary Acts, No. 2, Sec. 40.

No. 166. *AN ACT FOR THE RAISING OF A PUBLICK STORE OF POWDER FOR THE DEFENCE OF THIS PROVINCE.*

Preamble.

WHEREAS, It is absolutely necessary in order for the future security for the defence of this part of the Province, that there be a sufficient store of powder allways in readiness for the defence of his Majesties subjects and the security of the same;

Tax of half a pound of gunpowder per ton of the vessel's tonnage.

Be it therefore enacted by his Excellency John Earl of Bath, Palatine, and the rest of the true and absolute Lords and Proprietors of the Province of Carolina, by and with the advice and consent of the rest of the members of the General Assembly, now mett at Charlestown for the south-west part of this Province, *And it is enacted* by the authority of the same, that all and every master and commander of all and every ship and ships, vessel and vessels that now or hereafter shall come into any port, creek or harbour belonging to this Government, shall make a true and just entry in the Secretary's Office of the burthen and Tunage of his or their ship or vessel, and every such master or commander shall pay and deliver the full and just quantity of half a pound of good and clean serviceable gunpowder, for every and each tunn that his or their ship or vessel doth or shall measure and contain by the rule, and for want of such powder to be paid and delivered as aforesaid, the master or masters, commander or commanders shall pay or cause to be paid in currant silver money of this Province the sum of five shillings for every tunn which his or their ship or ships, vessel or vessels doth or shall measure by the rule or contain as aforesaid.

II. *And be it enacted* by the authority aforesaid, that Mr. Thomas Howard is hereby made and appoynted Gunner and Receiver of the publick powder from and after the ratification of this Act ; and for receiving and collecting all powder and money that shall accrew or become due by this Act, shall receive tenn pounds for every hundred and no more ; but in case the said receiver shall dye, go off, neglect or refuse to officiate, or upon any other misdemeanor whatsoever, neglecting his office, that it shall be lawful for the Governour for the time being, who is hereby impowered from time to time to nominate another in his room, and he so nominated and appoynted shall perform all things as the said Thomas Howard is required, impowered and commanded in this Act.

A. D. 1698.

A Gunner and Receiver appointed.

III. *And be it further enacted*, that the said public receiver of powder shall keep a fair book of accompts with the name of the master and name and burthen of the vessel, with the quantity of money or powder so received, and that an accompt to the General Assembly shall render, or to any other persons by them appoynted at such time and times, and as often as they shall think most fitt.

Receiver to keep accounts

And that things necessary for the defence of this place be not wanting where occasion shall require ;

IV. *And be it likewise enacted* by the authority aforesaid, that in case any master or masters, commander or commanders of any ship or ships, vessel or vessels, do or shall make a false or short entry of the tunage of his or their ships or vessels, contrary to the true intent and meaning of this Act, that in such cases the gunner or powder receiver for the time being, shall and may, and is hereby impowered to send a sworn Surveyor on board any such ship or vessel, the master or commander whereof is supposed to have made a short or false entry of her tunnage, and the surveyor is to measure the ship or vessel, and whatever she shall appear to be or contain over and above what she was entered, the master or commander shall pay and deliver for every tunn so entered short, the quantity of a pound of powder or five shillings currant money over and above what was due upon the first entry. And also the surveyor shall receive and have from such masters or commanders for his pains and trouble, tenn shillings currant money. But if it shall appear upon the measuring of any ship or vessel that she doth not contain more tuns than she was entered for, then the master or commander of such ship or vessel shall not be obliged to pay unto the surveyor any fees for his work or pains in measuring the said ship or vessel.

Penalty for false entry.

V. *And be it further enacted* by the authority aforesaid, that if any master or commander of such ship or vessel shall neglect, refuse or deny to pay and deliver all such quantity or quantitys of powder or sums of money which shall be due from him or them by vertue of this Act unto the gunner or powder receiver, in such cases it shall and may be lawful for the marshall of the Admiralty, by vertue of a warrant under the hand of the Chief Judge of the Court of Admiralty, or some one of his assistants for the time being, to be granted on the complaint of the powder receiver, to arrest the person of such master or commander, or to attach his or their ships or vessels so that the said ship or vessel shall be held and continued in custody of the law, or the person of the said master or commander, without bail or mainprize, until the said master or commander has paid and delivered unto the powder receiver all such quantity or quantitys of powder, or all such sum and sums of money as shall be due by this Act from him or them for the tunage of his or their ships or vessels, together with all the costs and charges that shall or may accrew by reason of the non-payment as aforesaid. *Provided*, nevertheless, that all ships and vessels that are or shall be hereafter built and do belong to this Province, shall be

Penalty on neglect to pay the tax.

Exemption of vessels owned in Carolina.

A. D. 1698.

wholly exempted from paying any powder or money in lieu thereof, and any ship or vessel not built in this Province, and whose owners are inhabitants of this Province, shall be lyable only to pay half the powder or money for each tunne their ship or vessel shall contain as this Act before directs, any thing in this Act to the contrary in any wise notwithstanding.

Vessels not to
be cleared till
tax paid.

VI. *And it is further enacted* by the authority aforesaid, that no ship or vessel shall be cleared in the Secretary's Office until the said master produce a certificate from the Powder Receiver mentioning the powder he hath received or money in lieu thereof, as this Act directs, on the penalty that the Secretary for the time being shall pay to the Powder Receiver all such powder or sums of money as shall be due from such ship or vessel.

Vessels
arriving, where
to anchor.

VII. *And it is further enacted* by the authority aforesaid, that if any ship, sloop or vessel whatsoever, that shall after advise thereof by the pylott be given to the master, come one mile to the westward of Sullivan's Island, before information be given from whence she is arrived, to the Governour, or in his absence, to come Justice of Peace or Commission Officer in Charlestown, the gunner for the time being is required and commanded to fire so many great guns with shott at the said vessel as he shall think fitt, till the said ship or vessel is brought to stay and anchor; and the vessel not so staying and anchoring shall be deemed as an enemy, and be proceeded against accordingly; and if any master or commander of any ship or vessel whatsoever, after notice given him by the pylott or any person whatsoever, shall offend, contrary to the true intent and meaning hereof, every such master or commander shall suffer such imprisonment as the Governour, or the Governour for the time being, shall think fitt, or pay thirteen shillings and four pence for each and every gunn so fired, to the gunner or powder Receiver for the time being, who is hereby required to give an account of the same to the General Assembly, or to any that shall be by them appoynted, and to be disposed of as they in their wisdom shall think fitt; and if the pylott of each respective vessel shall omitt or neglect to give the master notice thereof, he shall forfeit for each offence tenn pounds.

Penalty.

Notice to be
given of
contagious
disorders.

VIII. *And be it further enacted*, that the pylott aforesaid shall enquire of every master or commander of every vessel whether any contagious sickness be on board his vessel, and the master or commander of every vessel shall give a true account thereof, and if there be any contagious sickness on board, the pylott shall acquaint the master not to come above one mile to the westward of Sullivan's Island, on penalty of tenn pounds on the pylott so neglecting, and the penalty of fifty pounds on every master or commander of any vessel that shall have any contagious sickness on board his vessel, and not coming to an anchor as aforesaid after notice given him. And for the better enabling the said powder receiver to perform what is required in this Act, every master for each certificate so received, shall pay unto the said receiver of powder two royals, and no more.

Salutes how to
be returned.

IX. *And it is further enacted*, that the gunner is hereby required and commanded upon the arrival of any ship or vessel whatsoever, saluting this port, to every vessel so saluting as aforesaid, to give for three guns so fired one and no more. And if any ship or vessel as aforesaid shall fire five, or any quantity above, the gunner shall and is hereby commanded to give three to each vessel so arriving, and no more. But if any necessary occasion shall happen that may require more guns to be fired than is afore appoynted, the Governour, or the Governour for the time being, is hereby empowered to give such order for the firing of so many guns as he in his wisdom shall think fitt.

X. *And be it further enacted*, that every master of every ship or vessel which shall arrive into any part of this part of this Province shall deliver all the letters that are in his custody to Mr. Francis Fidling, and no other, who before he shall deliver any letter or letters to any person or persons, shall make an exact lyst of the said letters, which lyst the said Francis Fidling shall fix up in some publick place in his house, to remain there thirty days, to be viewed by every person desirous thereof, and the letters therein shall carefully deliver to every person to whom they are directed, or to such person as shall be sent for the same; and opposite to each particular name in the aforesaid lyst shall write the name of the person to whom he delivered the letter, that each person contained in the said lyst may know who received their letters for them; and every person which shall receive one letter, packett or packetts from the said Francis Fidling, shall pay him for each letter or packett half a royall and no more; And if the said Francis Fidling shall refuse or neglect to perform the particulars that are required of him as above, shall forfeit for each offence the sum of forty shillings.

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Ship letters to be delivered.

XI. *And it is further enacted* by the authority aforesaid, that all fines and forfeitures that shall accrew or become due by this Act, not exceeding forty shillings, shall be recovered as the Act for the tryal of small and mean causes directs, and all forfeitures exceeding forty shillings shall be recovered by bill, playnt or information in any Court of Record in this part of the Province, wherein no protection, injunction, delay or wager of law shall be allowed or admitted of, all which fines and forfeitures as aforesaid, not appropriated in this Act, one moiety thereof to the informer, and the other moiety or half part to be paid to the publick Receiver for the publick use of the Province.

Disposal of forfeitures.

XII. *And be it further enacted*, that this Act and every thing therein contained do continue in force two years, and from thence to the first sessions of the next Général Assembly after.

*Read three times and ratified in open Assembly,
the 8th day of October, 1698.*

JOSEPH BLAKE,
STEPHEN BULL,
THOMAS CARY,
JAMES MOORE,
WM. HAWETT.

NOTE.—This Act contains provisions not in the former Acts with this title. See the Act on the same subject, February 12, 1707, and the references thereto.

AN ACT FOR THE ENCOURAGEMENT OF THE IMPORTATION OF WHITE SERVANTS.

No. 167.

WHEREAS, the great number of negroes which of late have been imported into this Collony may endanger the safety thereof if speedy care be not taken and encouragement given for the importation of white servants.

I. *Be it enacted* by his Excellency, John Earl of Bath, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members

A. D. 1698.

Thirteen
pounds to be
given for all
imported
servants
except Irish.

of the Generall Assembly, now met at Charlestowne, for the south-west part of this Province, that every merchant, owner or master of any ship or vessel, or any other person not intending to settle and plant here, which shall bring any white male servants, Irish only excepted, into Ashley river, above sixteen years of age and under forty, and the same shall deliver to the Receiver General, shall receive and be paid by the said Receiver in dollars, or pieces of eight, at five shillings the piece, the sum of thirteen pounds for every servant so delivered, and for every boy of twelve years and under sixteen, imported and delivered to the Receiver as aforesaid, the sum of twelve pounds, as aforesaid; Provided, that every servant, as aforesaid, hath not less than four years to serve from and after the day of his arrival in Ashley River, and every boy aforesaid, not less than seven years. And if any person shall deliver to the Receiver aforesaid, any servant or boy, as aforesaid, which hath less time to serve than the respective times before appoynted, the Receiver shall pay such person proportionably to the rates and times aforesaid, for so long time as such servant or boy hath to serve; and no person which shall deliver any servant or boy to the Receiver, which hath longer time to serve than the respective times of four and seven years, aforesaid, shall remit any of the time the said servant or boy ought *bona fide*, whether by custom or contract, to have served his said master; and every servant or boy so delivered to the Receiver shall serve so long as he or they ought to have served their said master.

Term of service
prescribed.

II. *And be it further enacted* by the authority aforesaid, that no servant or boy shall serve longer than such time they have indented and contracted for, and that every servant above sixteen years old which shall be brought into Ashley River without contract or indenture, shall serve five years and no longer; and every boy from twelve years old to fourteen shall serve till they come to one and twenty years old, and from fourteen years old to sixteen years shall serve seven years and no longer.

Planters to take
imported
servants in
proportion to
negroes.

III. *And be it further enacted*, that every owner of every plantation to which doth belong six men negro slaves above sixteen years old, shall take from the Receiver one servant, when it shall happen to be his lot to have one, and shall within three months pay the said Receiver so much money for the said servant as the Receiver gave to the person from whom he received the same; and the owner of every plantation to which doth belong twelve negro men, as aforesaid, shall when it shall be his lot, take two servants as aforesaid; and every master of every plantation proportionably; *Provided*, and it is hereby intended, that every male servant contracted for four years, and not under, shall to all intents and purposes be deemed as good, and supply the room of such as shall be bought from on board of any vessel, or by lot should be appoynted him as aforesaid.

Unless already
supplied.

IV. And that no master of any plantation may have any servant put unduly and unjustly upon him, but the same it shall be his lot to have, and not till it shall be his lot thereto,

Constables to
furnish a list of
planters.

Be it enacted, that every constable, in his division, under the penalty of forty shillings, shall make a lyst of the names of all masters of plantations, to whom six negro men or upwards do belong, and the same shall deliver to the publick Receiver for the time being, to be delivered to Dr. Charles Burnham, Mr. John Alexander and Mr. John Buckley, Commissioners hereby appoynted, for seeing all lotts fairly and duely drawn, which Commissioners, or any two of them, shall cause all the names so delivered to them, to be fairly written in little rools

of parchment, every name to whom doth belong twice six negroes as aforesaid, shall be written in two rools, and so proportionable for any greater number of negroes as aforesaid, all which rools, as often as the Receiver shall give the Commissioners aforesaid notice, who is hereby commanded, within twenty-four hours after received, to do the same, that he hath any white servants to dispose of according to the directions of this Act, the Commissioners, or any two of them, together with the Receiver, after publick notice given in Charlestown, shall put into a bagg or box, and by a child under tenn years old, shall cause so many rools to be drawn out as the Receiver hath servants to be disposed of as aforesaid, having appoynted and sett apart that servant which shall belong to the first, second and third lott, and so on.

A. D. 1693.

V. *Provided always, and it is hereby enacted*, that the Commissioners aforesaid, after publick notice given in Charlestown, shall cause to be allotted among such persons only as have twelve or more negro men, as aforesaid, all the servants as aforesaid, that shall arrive, till every person hath but one servant to receive, and then the names of such persons shall be put in the bagg or box with those that have but six male negroes, as aforesaid, and shall have their lot, as before appoynted, any thing in this Act before, to the contrary, notwithstanding. And the Receiver and Commissioners having first, under their hands, certified the name of every servant lotted to every master respectively, the said Receiver shall give notice as soon as conveniently he can, to each person whose lot it is to take a servant, to fetch the same away; and every person which shall, after notice as aforesaid, neglect to fetch away his servant, shall pay to the Receiver fifteen pence for every day he shall neglect, as aforesaid, which fifteen pence shall be recovered by warrant from any one Justice of the Peace, and the Receiver shall lay it out to buy victuals for said servant. And every person which shall receive any servant from the Receiver, shall give his bill to the Receiver for the use of the publick, for payment of so much as the Receiver did pay for the same, and at such time as before by this Act is appoynted, and on default of payment of any such bill, the Receiver is hereby impowered in his own name, but for the use of the publick, to sue such bill; but all the expenses and charges for victuals of said servant at twelve pence per day, after received from aboard, and before notice given as aforesaid, shall be at the cost and charge of the publick.

Commissioners
to make
allotment
among planters.

VI. *And be it further enacted* by the authority aforesaid, That if any of the Commissioners aforesaid should dye or depart this Province, the surviving and residing Commissioner or Commissioners, with the Receiver, shall appoynt another under their hands and seals in the room of him or them deceased, or departed this part of the Province, and him or them so appoynted as aforesaid, shall to all intents and purposes be deemed Commissioner as if he had been nominated in this Act.

Vacancies in
the commission
to be filled up.

VII. And for the prevention of future differences that may happen, concerning the ages of servants imported into this part of the Province, *Be it enacted*, that the commissioners aforesaid, or any two of them, shall adjudge and certify under their hands the age of every servant under sixteen years of age, imported as aforesaid, and that servant or servants so adjudged and certified as aforesaid, shall serve their respective time and times, as before in this Act is ordained and appoynted.

Commissioners
to certify the
age of servants.

VIII. *And be it further enacted* by the authority aforesaid, that this Act and every thing therein contained do continue in force three years,

A. D. 1698. and from thence to the first sessions of the next Generall Assembly after.

*Read three times, and ratified in open Assembly,
the 8th day of October, 1698.*

JOSEPH BLAKE,
STEPHEN BULL,
THOMAS CARY,
JAMES MOORE,
WILLIAM HAWETT.

Repealed by the Repealing Act of March, 1700-1.

No. 168. AN ACT for the Better Ordering of Slaves.
(Ratified October 8th, 1698. For two years. See No. 57. Expired.
See last volume.)

No. 169. AN ACT TO CONTINUE AND REVIVE SEVERAL ACTS WITHIN
MENTIONED.

No. 129. BE IT ENACTED, by his Excellency John Earl of Bath, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the Members of the General Assembly, now met at Charlestown, for the South-west part of this Province, That an Act entitled An Act for laying an Imposition upon Skins and Furs, for the defence and publick use of this Country, ratified in open Assembly the 16th of March, 1695-6, be and is hereby continued to be in full force for the full term of two years after the ratification of this Act, and from thence to the end of the first session of the next General Assembly, and no longer, any limitation or other thing therein contained to the contrary notwithstanding.

No. 112. II. *And be it further enacted* by the authority aforesaid, That an Act entitled An Act to raise Money to be disposed of for the Encouragement of the Production and Manufacturing of divers sorts of Provisions and Commodities of the growth of this Province, ratified in open Assembly the 20th day of June, 1694, with an Additional Act for the better Collecting and Receiving the Dutys and Rates upon Liquors, Tobacco and Provisions imported into this part of this Province, ratified in open Assembly the sixteenth day of July, 1695, and since are continued by an Act for the laying an Imposition upon Skins and Furs for the defence and publick use of this country, are hereby declared and continued to be in force for the full term of two years after the ratification of this Act, and from thence to the end of the first session of the next Assembly, and no longer, any limitation in the aforesaid recited Acts contained to the contrary notwithstanding.

Duty of public
Receiver.

III. *And it is also* required and commanded that the Publick Receiver do and hereafter shall from time to time receive all moneys and impositions raised by any Act whatsoever, in dollars or Spanish pieces of eight at five shillings the piece, and not otherways, any thing in the eleventh

paragraph of an Act entitled An Act to Continue the Acts within mentioned, ratified in open Assembly the fifth day of December, 1696, contained to the contrary notwithstanding.

A. D. 1699.

No. 148.

No. 130.

IV. *And be it likewise further enacted* by the authority aforesaid, That an Act entitled An Act for the Regulating Publick Houses and to ascertain the prices of Liquors, ratified in open Assembly the sixteenth day of March, 1695-6, be and is hereby revived and enacted to be in full force for and during the term and time of three years from and after the ratification of this Act, any limitation in the said Act to the contrary contained notwithstanding.

*Read three times and ratified in open Assembly,
the 26th day of August, 1699.*

JOSEPH BLAKE,
JOSEPH MORTON,
ROBERT DANIELL,
JAMES MOORE,
ROBERT GIBBES,
EDM. BELLINGER,
H. NOBLE.

Expired.

AN ACT FOR THE ASCERTAINING THE GUAGE OF BARRELLS, AND FOR No 170.
AVOIDING DECEIPTS IN SELLING AND BUYING BEEF AND PORK.

FORASMUCH as Beef and Pork are two of the principal commodities of the product of this parte of this Province, and great quantities thereof are transported beyond the seas, and whereas complaint has been made that the barrells which the said commodities are usually packed up in within this parte of this Province are of less number of gallons than barrells which are used for the holding of the said commodities in other countreyes, and that great frauds and deceits are practised and used in the false packing and in the barrelling up bulls flesh, boars flesh, and other unmerchable and corrupt meat, to the great abuse of traders in the said commodities, and to bringing said commodities into great disrepute abroad; For remedy whereof,

I. *Be it enacted* by His Excellency John Earl of Bath, Palatine, and the rest of the Lords and absolute Proprietors of this Province, by and with the advice and consent of the rest of the Members of the General Assembly, now met at Charlestown for the south-west part of this Province, *And it is enacted* by the authority of the same, That from and after the ratification of this Act, no cooper or other person whatsoever shall expose to sale any barrell or half barrell for the packing up Beef or Pork, or for the putting up Pitch or Tarr, but such barrells as shall contain eight and twenty gallons, and such half barrells as shall contain fourteen gallons, wine measure, at the least. And all barrells and half barrells that shall be exposed to sale, to hold beef or pork, shall be made of good seasoned wood; and the said cooper or other person, before he or they do expose to sale any barrells or half barrells for beef, pork, pitch or tarr, shall sett his or their proper burnt mark upon every such barrell or half barrell, which mark he or they shall cause first to be recorded in the Secretary's office of this part of this Province, upon pain that every cooper or other person or persons offending in making such barrells or half

A. D. 1699.

barrells of lesser number of gallons than is aforesaid, or making and exposing to sale any such barrell or half barrell for packing beef or pork, of unseasoned wood, or not putting his or their proper burnt mark upon every such barrell or half barrell, or not recording his or their mark in the Secretary's office aforesaid, shall for every such offence respectively forfeit the sum of five shillings for every barrell and two shillings and six pence for every such half barrell.

Beef and pork
not to be
exported unless
in barrells, &c.

II. *And be it further enacted* by the authority aforesaid, That no Planter, Merchant or other person whatsoever shall from and after the ratification of this Act expose to sale any pitch or tarr put into, or any merchantable beef or pork packed up in, any other barrell or half barrell than such as shall be marked by the cooper or other person as aforesaid. And that no bulls flesh, boars flesh, or any other unmerchantable or corrupt meat shall be mixed or packed up into any barrell or half barrell, with any merchantable beef or pork, but that the said unmerchantable beef and pork shall be packed up apart by themselves in some other cask than such barrells or half barrells aforesaid. And that no one piece of beef or pork packed up in any barrell or half barrell be cut larger or do contain more than sixteen pounds weight, and that the said beef and pork be well, truly and justly laid and packed, upon pain of five shillings for every barrell of pitch, two shillings and sixpence upon every barrell of tarr, fifteen shillings upon every barrell of pork, and ten shillings upon every barrell of beef, he or they shall expose to sale and is not so marked, and that bulls flesh, boars flesh or any other unmerchantable or corrupt meat shall be mixed or packed up in any barrell or half barrell, or that any one piece of beef or pork be cut larger or do contain more than sixteen pounds weight, or that the same beef or pork be untruly, deceitfully and falsely packed, and so proportionably for every half barrell of each.

Size of the
pieces.

Forfeiture.

III. *Provided always, and it is enacted*, no planter or other person shall be lyable to any of the penaltys and forfeitures in the clause or paragraph last mentioned, that do not sell and deliver his or their beef or pork before the barrells that contain the same be marked with the Packer's mark.

Searchers and
Guagers
appointed.

IV. *And be it further enacted* by the authority aforesaid, That George Beadon senior and George Beadon junior, and so many and such deputys as he or they shall appoynt and are allowed and approved of by William Smith, Esq. Mr. Jonathan Amory, Capt. William Smith and Mr. William Popell, or any three of them, be and are hereby nominated and appoynted Searchers, Guagers and Packers of this part of this Province. And the said George Beadon senior and George Beadon junior, shall find storehouse room and yard in some front lott on the wharf in Charlestown, for all beef and pork that shall be sent to the said George Beadon senior and George Beadon junior, to be searched and packed, without charges. *Provided always*, that they shall not be obliged to find store room as aforesaid for any one parcel of beef or pork for a longer time than three months.

Power of the
searchers.

V. *And be it further enacted* by the authority aforesaid, That George Beadon senior and George Beadon junior, or their deputys, shall go to every man's house, plantation, landing, or on board any vessel, which they shall be sent for to search, pack and view any beef or pork. *Provided*, the same house, plantation, landing or vessel, be not further distant from Charlestown than one mile, for every two barrels of beef or pork they or either of them shall there search and pack.

In case of
packer's
neglect.

VI. *And be it further enacted* by the authority aforesaid, That if any person shall have reason to believe that the said George Beadon senior and George Beadon junior, or their deputys, doth refuse to put the Pack-

er's mark upon any barrel or half barrel of beef or pork which is good and merchantable, and every way qualified according to the intent of this Act, such person shall apply themselves to the Commissioners aforesaid, or any two of them, to view the said beef or pork, and if the said Commissioners or any two of them shall judge the said beef or pork merchantable, then and not otherwise the said Packers or either of them or their deputys shall put the said Packers mark on said beef or pork. A. D. 1699.

VII. *And be it also enacted*, That the said Packers and each of them shall procure irons for the burning or marking all such barrels or half barrels of beef or pork, which iron shall have this stamp ****, which shall for ever hereafter be taken and accounted the Packers Mark of this part of this Province; and the said Packers shall burn the said mark and the two first letters of their names respectively on the bung staff of the said barrel or half barrel; and that the said Packers and their deputys, before he or they do execute any part of his or their office, shall take oath duly and truly to search, guage, pack and mark all and every merchantable barrel or half barrel of beef or pork, that any person or persons whatsoever shall or do require them to search, guage, pack and mark; and shall do the same as the meat is tendered unto him or them, without neglect or unnecessary delays, on the penalty and forfeiture of forty shillings for every default. Brands to be procured.

VIII. *And be it further enacted*, That no person or persons whatsoever shall, from and after the ratification of this Act, carry or transport, or cause to be carried or transported, or put on board any vessel whatsoever with an intention to carry it to any of the ports beyond seas, any barrel or half barrel of beef or pork, unless the Packer's mark of this part of this Province be set upon the bung staff of every such barrel or half barrel, upon pain to forfeit ten shillings for every such barrel and five shillings for every such half barrel he or they shall put on board or transport as aforesaid. No beef, &c to be transported unless under the packer's mark.

IX. *And be it further enacted*, That no person or persons whatsoever do presume to counterfeit and set the said Packer's mark upon any barrel or half barrel or other cask whatsoever, upon pain of the forfeiture of five pounds sterling for every such offence. Penalty on counterfeiting.

X. *And it is further enacted* by the authority aforesaid, That the said Packers or their deputys shall not set the said Packer's mark of this part of this Province upon any barrel or half barrel of beef or pork that hath not on the said barrel or half barrel the Cooper's mark aforesaid, nor any barrel or half barrel packed up with bulls flesh, boares flesh, or any other unmerchantable or corrupt meat, or that hath any of the same mixed among merchantable meat, nor any one barrel or half barrel of beef or pork that is untruely, deceitfully or falsely packed, upon pain of twenty shillings for every barrel and ten shillings for every half barrel for every such offence. The cooper's mark made necessary.

XI. *And that the said Packers or either of them shall not demand unreasonable fees for the due execution of their office*, *Be it further enacted*, that the said Packers or either of them, nor their deputys, take no more for searching, guaging, packing and marking of a barrel or half barrel of beef or pork, than six pence for every barrel or half barrel he or they shall search, guage, pack, mark and again head up. Penalty.

XII. *And be it further enacted* by the authority aforesaid, That all and every the offences against this Act, that shall or do not arise to above the sum of forty shillings, are to be inquired of, sued for, heard and determined before any one or more of his Majestie's Justices of the Peace in this part of this Province, in the manner as small and mean causes are by virtue of an Act Packer's fee.

- A. D. 1699.** *entitled An Act for the Tryal of Small and Mean Causes, made and ratified at Charlestown, the 15th of October, 1692; and that all offences against this Act, which shall arise to above forty shillings, to be sued for, heard and determined in the Court of Pleas, in this part of this Province, by action of debt, or information, wherein no essoign, protection or wager of law shall be allowed to the defendant; and the one moiety of all forfeitures by vertue of this Act, shall be to the publick use of this part of this Province, to be paid into the hands of the Treasurer appoynted by the General Assembly, and to be disposed of as the Assembly for the time being shall think fitt, and the other half to him or them that shall sue for the same, besides the costs thereby expended. *Provided* always, that every suit and information which shall be brought upon this Act, shall be commenced in twelve months after any offence or offences therein mentioned is committed.*
- Forfeitures how recovered.**
- Vacancies how supplied.** **XIII.** *And be it further enacted* by the authority aforesaid, That if the Packers above named, or either of them, shall happen to dye, or depart this Province, the right honourable the Governour or the Governour for the time being, shall have power and is hereby requested to name and appoynt one person or persons in the place of him or them that shall so happen to dye or depart this Province, which person or persons so appoynted shall be subject and lyable in all cases, as if he or they had been particularly named in this Act.
- To continue for three years.** **XIV.** *And be it further enacted,* That this Act and every thing therein contained, do continue in force three years, and from thence to the first session of the next General Assembly after, and no longer.

*Read three times, and ratified, in open Assembly,
the 8th day of October, 1698.*

JOSEPH BLAKE,
STEPHEN BULL,
THOMAS CARY,
JAMES MOORE,
WILLIAM HAWETT.

NOTE.—Continued for two years by sect. 2 of Act No. 183, entitled An Additional Act to an Act for ascertaining the Gauge of Barrels, &c. which is expired.

No. 171. AN ACT for Securing the Provincial Library at Charlestown, in Carolina.

(Ratified November 16, 1700. *See last volume.*)

A. D. 1700.

AN ACT TO MAKE SULLIVAN'S ISLAND MORE REMARKABLE TO MARINERS. No. 172.

WHEREAS the Look-out formerly built on Sullivan's Island to make the entrance of this port notable and remarkable to mariners, is by a late storm overthrown to the ground, so that several vessels for the want thereof, to their great disappointment and detriment of their owners, have for some time mist this harbour; Therefore, that the entrance of the said harbour may for the future be made more remarkable,

I. *Be it enacted*, by his Excellency John Earl of Bath, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the South-west part of this Province, *And it is enacted* by the authority of the same, That all the under woods of the said Island, and such other of the standing and growing trees thereof, be cut down and cleared, as the Commissioners hereafter nominated shall direct, and such remarkable trees standing thereon shall be left standing in such form and figure as may most conduce to the better distinguishing of the said Island, as the said Commissioners shall appoint.

II. *And it is further enacted* by the authority aforesaid, That Landgrave Edmund Bellinger, Col. Stephen Bull, Mr. James Whitter, Mr Thomas Pinkney, Mr. John Croskeys, Mr. Joseph Croskeys, and Capt. James Risbee, or any four of them, are appointed Commissioners for the perfecting and expediting of the said work. And that the said Commissioners, or any four of them, are hereby impowered to hire workmen to finish and compleat the same; and by an order under their hands, or any four of them, to draw as much money out of the hands of the Publick Receiver as shall defray the charges thereof.

III. *Whereas*, a common Ferry is lately set up at the Plantation of Capt. Anthony Mathews, for the great advantage of the inhabitants on the east side of Wandow River, and the adjacent Plantations, *Be it enacted* by the authority aforesaid, That with all convenient speed, after the ratification of this Act, at the equal charges and labour of all the male persons above the age of sixteen years, inhabiting on the east side of Wandow River, from the dwelling house of Capt. Humphry Primate, inclusive, to the house of William Ballaugh, inclusive, with the inhabitants liveing at Bow-watt, to the house of Edward Smith, inclusive, one Highway or Common Road, of sixteen feet wide, be made, mended, and kept clear, from the Ferry abovesaid to the most convenient place of the other highway in the same Neck; and that the same highway be surveyed, layd out or directed by the Commissioners for the laying out a common highway on the east side of Wandow River, as appoynted by an Act entituled an Act for making and mending Highways, &c. And if any person or persons shall refuse or neglect, after due notice given them, to repair to the place appointed as aforesaid, then and there to do such labor as the respective commissioners or overseers shall direct or order, the person so neglecting or refusing shall for every day or time he shall or doth neglect or refuse as aforesaid, forfeit the sum of five shillings per day, or value thereof; which fines and forfeitures are to be levied in such

A. D. 1700.

manner and form and for such uses as the aforesaid Act for making and mending Highways does prescribe.

*Read three times, and ratified in open Assembly,
this 16th day of November, 1700.*

JAMES MOORE,
JOHN WICH,
EDM. BELLINGER,
ROBERT GIBBES,
HENRY NOBLE.

NOTE.—Judge Trott (Laws of South Carolina, p. 81) says that this Act is repealed by the last section of the Act No. 458, according to his numbering, passed Sept. 15, 1721, To empower the several Commissioners, &c. It does not seem so to me; as I know of no authority for considering Sullivan's Island a part of Charleston.

No. 173. AN ACT to Prevent the Seas further Encroachment upon the Wharff at Charlestown.

(See last volume.)

No. 174.

A CONTINUING AND REVIVING ACT.

(The original Act not now to be found. The following brief notice of it is copied from Trott's Laws of South Carolina, p. 83.)

"Ratified November 16, 1700.

"I. The Act No. 149, continued for two years.

"II. and III. Obsolete.

"IV. Five years longer allowed upon the Act No. 145, §1. Expired.

"V. The Act No. 166, continued for two years.

"VI. VII. VIII. IX. and X. Obsolete."

No. 175. AN ACT to lay an Imposition on Liquors and Goods imported into this Part of the Province, for the Defence and Support of this Government.

(The original Act now to be found. The following brief notice of it is copied from Trott's Laws of South Carolina, p. 83.)

"Ratified November 16, 1700. For two years.

"XIV. The Acts No. 112, and 121, Repealed.

"XV. The Act No. 129, continued for two years.

"This Act continued to the 16th of November, 1703. See No. 200, § 1.

"Repealed. See No. 205, § 23."

A. D. 1700.

No. 176.

AN ACT TO RAISE THE CURRENT COYN OF THIS PROVINCE.

WHEREAS, the great decay of trade hath been occasioned by the scarcity of moneys. For the prevention thereof, and for the better securing of that which yet is left among us, and likewise for the incotragement of greater quantities of moneys to be brought into this part of the Province;

I. *Be it therefore enacted* by his Excellency John Earl of Bath, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south west part of this Province, *And it is enacted* by the authority of the same, That all pieces of eight, of fine silver, Mexico civill and pillar, weighing thirteen penny weight, shall be currant money of South Carolina, and pass at six shillings, and all pieces of eight of the aforesaid coins, weighing fifteen penny weight, shall be currant, and pass at six shillings and nine pence; and all pieces of eight of the said coyns, weighing seventeen penny weight, shall be currant, and pass for seven shillings and six pence; and all halfe pieces of the aforesaid coyns shall be currant, and pass in proportion to the whole; and all double royalls shall pass for eighteen pence; and all single royalls shall be currant, and pass for nine pence; and every halfe royall for fourpence halfpenny; and all Perue peices weighing thirteen penny weight and upwards, shall be currant, and pass for six shillings; and all halfe peices of Perue weighing six penny weight and a halfe, shall be currant, and pass for three shillings; and all copper farthings of the coyne of England shall be currant money in this Province, and pass three farthings for one penny, *Provided*, That no person shall be obliged to receive more of the said farthings than ninepence in one payment.

II. *And be it further enacted* by the authority aforesaid, That all unclipt, unfiled, unlightened, not counterfeited, and unadulterated dollars and halfe dollars, commonly called lyon dollars, and no other dollars, shall be currant money of South Carolina, and pass the dollar at six shillings, the halfe dollar at three shillings. The English crowne, rex dollar, and French crowne, shall pass for seven shillings and six pence, and any lesser peice of the said coynes in proportion.

III. *And be it further enacted* by the authority aforesaid, that all moneys of New England coyne shall be currant money in Carolina, and the shilling of that coyne shall pass for thirteen pence halfpenny, and every other peice of the said coyne shall proportionally pass after that rate or value; *Provided*, that the same be unclipped, unfiled, unlightened, not counterfeited and unadulterated, and not otherwise. And all gold of foraine coyne shall be currant money in South Carolina, and pass for six shillings and six pence the penny weight.

IV. *And whereas*, divers evill disposed persons have made it their practice to clipp, round, file and counterfeit the aforesaid coynes, for the prevention whereof, *Be it further enacted*, and it is hereby enacted by the authority aforesaid, that all persons whatsoever, and their aiders, consenters, counsellors and imployers, which hereafter shall clipp, wash, round, counterfeit, adulterate, or any manner of ways whatsoever lighten or deminish any of the coyns aforesaid, or the coyne of the Kingdome of England, or any coyne which by proclamation hereafter, at any time before the fact committed, shall be made currant in South Carolina, shall be taken, adjudged, and deemed guilty of felony without benefit of Clergy.

A. D. 1700.

V. *And be it further enacted*, that any person who shall wittingly and willingly, with a designe to defraud, import and utter any counterfeit or adulterate money of any of the aforesaid coynes, whatsoever, shall be taken, adjudged, and deemed guilty of felony without benefit of Clergy.—*Provided*, allways, and it is enacted, that all debts which are already contracted, or which at any time before twenty days after the ratification of this Act shall be contracted; shall be payed and taken in the severall coyns aforementioned, at such rates and value as the same were currant at before the ratification of this Act, and as if this Act had never been made.

VI. *And be it further enacted* by the authority aforesaid, that the Honourable the Governour and all publick officer's fees, and all Attorney's fees, shall be payed in the severall coyns aforementioned, at such rates and value as the same were currant at before the ratification of this Act, and as if this Act had never been made.

VII. *And be it further enacted* by the authority aforesaid, that all arrears of rent now due, and all rents which shall hereafter become due to the true and absolute Lords and Proprietors of this Province of Carolina, and that all persons which shall hereafter buy any lands of the Lords Proprietors, shall pay for the same in lyon dollars or Spanish peices of eight, not weighing less than thirteen penny weight, at five shillings each dollar and peice of eight.

VIII. *And be it further enacted*, that any moneys of any coyne whatsoever, which is or shall be plugged, shall not be currant nor pass in this part of the Province.

*Read three times, and ratified in open Assembly,
this sixteenth day of November, 1700*

JAMES MOORE,
JOHN WICH,
EDM. BELLINGER,
ROBERT GIBBES,
HENRY NOBLE.

Repealed by Act No. 179.

No. 177.

**AN ACT TO PREVENT HORSES BEING BROUGHT BY LAND FROM THE
NORTHERN SETTLEMENTS INTO THIS GOVERNMENT.**

WHEREAS, great numbers of horses have of late been brought from Virginia and other the northern plantations into this Collony, and dayly more may be expected, which hath and will prove disadvantageous and detrimental to the inhabitants hereof, for the prevention of which, and for the better encouragement of more serviceable horses to be bred amongst us,

£5 tax on each
horse brought
in.

I. *Be it enacted* by his Excellency John Earl of Bath, Pallatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, *And it is enacted* by the authority of the same, that if any person or persons shall from and after the first day of June next bring any horses by land from Virginia, or any other the northern plantations, into this part of this Province, he or they shall, for every horse, mare, gelding or colt he or they shall so bring, pay unto the public Receiver the sum of five pounds, to be disposed of by an ordinance of the Generall

Assembly, for the defraying the contingent charges and support of this Government. A. D. 1700.

II. And all horses, mares, colts or geldings which shall be brought into this settlement as aforesaid, and for which five pounds shall not be paid or secured to be paid into the Receiver's hands as aforesaid, shall be forfeited, in whosoever custody the same shall be found, and seized, and the person to whom such mare, horse, gelding or colt shall be first brought in as aforesaid, shall pay to the person from whom the same shall be taken, the price the same was by him sold for. And in case such person cannot be found, then the first buyer thereof shall pay the same, to be recovered by bill, playnt, or information in any Court of Record within this part of the Province, one moyety or half part of the valew of said Horses to him or them that will inform or sue for the same, and the other half part to be payed into the hands of the Receiver, to be disposed of by an ordinance of the Generall Assembly, to such use as the said sume of five pounds is ordained and appoynted.

If tax not paid
the horse may
be seized.

*Read three times and ratified in open Assembly,
March 1, 1700-1.*

JAMES MOORE,
JOHN WICH,
BELLINGER,
The other signers illegible.

Repealed by Act of July 5, 1707.

AN ADDITIONAL ACT for making and mending Highways.
(See last volume.)

No. 178.

A REPEALING ACT.

No. 179.

WHEREAS by an Act made and ratified the 8th day of October, 1698, entitled An Act for the Encouragement of the Importation of No. 167. White Servants, it was (amongst other things) enacted that by reason of the great numbers of negroes imported into this Collony, every owner of every plantation having six negro men slaves should be furnished and supplied with a white servant—as by the said Act is required; which is already accomplished,

Be it therefore enacted by his Excellency John Earl of Bath, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now mett at Charlestown for the south-west part of this Province, *And it is enacted* by the authority of the same, That the said Act, and every article, clause and sentence therein contained, be repealed; and it is hereby hence forward declared repealed, annulled, revoked, annihilated and utterly void for ever, any thing in the said Act to the contrary notwithstanding.

II. *And whereas*, by an Act made and ratified the 16th day of November, 1700, entitled An Act to raise the Currant Coyne of this Province, No. 176. it was also (amongst others) enacted, for reasons for the encouragement of trade, and that greater quantiyes of moneys might be brought into this Government; And forasmuch as the decay of trade cannot be prevented

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therewith, but rather the inhabitants labour under greater inconveniencys thereby, *Be it therefore enacted* by the authority aforesaid, that every word, clause and sentence therein contained, be repealed, and is hereby declared annulled, revoked and utterly void, for ever; any thing in the said Act to the contrary contained notwithstanding.

*Read three times and ratified in open Assembly,
the first day of March, 1700-1.*

JAMES MOORE,
JOHN WICH,
JOSEPH MORTON,
EDM. BELLINGER,
ROBERT GIBBES,
HENRY NOBLE.

No. 180. **AN ACT TO PREVENT PRISONERS FROM MAKEING ESCAPE, AND TO
APPOINT SESSIONS AND GOAL DELIVERY TWICE EVERY YEAR.**

Preamble.

WHEREAS the Right Honourable the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the Members of the Generall Assembly, now met at Charlestown for the south-west part of this Province, have thought fit, under the name of Provost Marshall, to appoint a General Goal-keeper for all the several countys and settlements in South Carolina, which Provost Marshall and Goal-keeper hath not been subjected nor lyable to such fines, forfeitures, and penalties, as the under sheriffs and goal-keepers of the Kingdom of England are lyable and subjected to by the common and statute laws thereof, which has allready been and if not prevented will be the occasion of several prisoners, as well criminals as debtors, their escapes out of Goal;

Goal-keepers
to be subject to
fines, &c.

I. *Be it enacted*, by his Excellency John Earl of Bath, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice of the Members of the General Assembly now met at Charlestown, That the present Goal-keeper of South Carolina, and every Goal-keeper which hereafter shall be made for all or any County or part of South Carolina, by what power soever so made or under what title soever distinguished, shall be lyable and subject to all the fines, forfeitures and penalties which by the common and statute law of England the under Sheriff and Goal-keepers of prisons are lyable and subjected to for escapes of prisoners.

Powers of
Goal-keepers.

II. And for the better enableing of Goal-keepers, made or to be made as aforesaid, to prevent the escapes of prisoners committed to their custody, *Be it enacted* by the authority aforesaid, That every Goal-keeper, made or to be made as aforesaid, shall have and execute all the powers which by the common and statute laws of England, any Sheriff, under Sheriff or Goal-keeper, for the better ordering their respective goales and preventing of the escapes of prisoners, hath or ought to have.

Sessions and
Gaol Delivery
to be twice a
year.

III. And whereas long omissions of Sessions of the Peace and Generall Goal Delivery, may occasion such numbers of debtors and criminalls to be in prison at the same time, as may encourage them to attempt to make escapes; to prevent which, *Be it enacted* by the authority aforesaid, That

a Generall Sessions of the Peace, and Generall Goal Delivery, shall be held twice every year at least, viz. the third Wendesday in March, and the third Wendesday in October, in every County or part of South Carolina for which a Gaoler shall be appointed.

A. D. 1700.

*Read three times, and ratified in open Assembly,
this first day of March, 1700-1.*

JAMES MOORE,
JOHN WICH,
JOSEPH MORTON,
EDM. BELLINGER,
ROBERT GIBBES.

NOTE.—Repealed by Sect. 45 of the Jurymen's Act of August 20th, 1731.

AN ACT FOR THE BETTER REGULATING THE PROCEEDINGS OF THE COURT OF ADMIRALTY IN CAROLINA, AND THE FEES OF THE SAME. No. 181.

WHEREAS, in order to the due administration of Justice, all Courts of Judicature ought to have settled known rules and orders for practice, that so the plaintiff may know how to prosecute, and the defendant to defend; and for as much as the Court of Admiralty, in this Province, hath not yet had any settled and known Rules and Orders for practice, whereby the plaintiff and defendant are both left at great uncertainties, for the prevention of which evil,

Be it enacted by the Right Honourable John Earle of Bath, Pallatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the consent and advice of the rest of the members of the Generall Assembly, now met at Charlestowne for the south-west part of this Province—that the following Rules and Orders shall be duely and respectively put in execution, observed and obeyed in manner hereafter mentioned.

1. That in all warrants or original mandates of arrest out of the said Court of Admiralty, there be ten dayes allowed betweene the date and returne.

2. That if any person be arrested by warrant or originall mandate of the Judge of the Admiralty, that the baile bond to the Marshall shall be for his personall appearance at the day of the return of the warrant, *Provided*, there be five days from the time of the execution of the warrant to the returne, otherwise the person arrested shall give bond to appear on the fifth day after the execution of the warrant, *Provided*, it be not Sunday, otherwise the next law day following, and the day to be ascertained in the said baile bond, together with the place where the Court of Admiralty is usually held.

3. That on the day of appearance, the defendant shall give caution by entering into bond to the plaintiff in the penall sum of the action to abide the judgment of the Court, and to pay costs if cast; and the plaintiff at the same time and place shall give bond to the defendant in the penall sume of one hundred pounds, to pay costs in case he fail with the suite; and the said bonds shall be entered into before the Register of the Court of Admiralty.

A.D. 1700.

4. That on the same day of appearance the plaintiff shall offer his libell against the defendant.

5. The libell being offered, the defendant shall have ten days time allowed him to put in his exceptions or answer to the said libell, giving the defendant, or his proctor, or attorney, notice a day before.

6. The plaintiff shall have five days time allowed him to reply to the exceptions.

7. And five days after, the exceptions shall be argued before the Judge, and if the exceptions are allowed good, the plaintiff shall pay the whole costs of the suite.

8. In case the exceptions are over-ruled, then the defendant shall pay the charges of the plaintiff relating to the exceptions, and shall be obliged to put in a positive answer to the libell within tenn days after the decree made for over-ruling the exceptions; but he may put the same in sooner if he pleases, giving the defendant, proctor or attorney, notice the day before.

9. In case the defendant doth not put in his answer within tenn days, then the cause to be decreed against him, and a writt of Inquiry of Damages shall be granted.

10. If the defendant make an insufficient answer, the plaintiff shall have five days time allowed him to except against the answer, and the exceptions being filed in the Register's office, the defendant shall answer the exceptions in three days time, and shall be heard before the Judge in two days after notice of the same, by rule being given to defendant, his proctor or attorney.

11. If the Judge doth allow the exceptions and pronounce the answer to be insufficient, he shall order the defendant to make a fuller answer to the plaintiff's libell, and shall further order the defendant to pay costs to the plaintiff for such his insufficient answer.

12. And if the defendant shall exhibit a second answer, that upon exceptions taken against it by the plaintiff, the Judge shall again pronounce to be insufficient, and that he thinks the same to be made purposely for delay, then it shall be lawfull for the Judge to decree the cause against the defendant, and a Writt of Inquiry of Damages shall be awarded against the defendant.

13. The answer to the libell being exhibited into the Register's Office, if no exceptions be filed against the same in three days time, the plaintiff or defendant, or both, shall bring all such witnesses as they suspect are a going to leave this Province before the time of the sitting of the next Court of Admiralty, to be examined before the Judge, or by four Commissioners, two whereof to be nominated by the plaintiff on his behalfe, and two by the defendant on his behalfe, which commission for examination of witnesses shall be returned into the Register's Office in six days after the date thereof.

14. The plaintiff or defendant at any time after the exhibiting the answer, may take out a summons for any witnesses they desire should be publicly examined in Court, to appeare at the next Court.

15. The commission for examination of witnesses being returned, the sixth day after, if not Sunday, the Court of Admiralty shall be held for tryall of the cause.

16. If no exceptions be taken against the answer of the defendant within the time limetted, and no commission is taken out to examine witnesses, then within tenn days time after such elapsing the time of fileing the exceptions and takeing out a commission to examine witnesses, the Court of Admiralty shall be held for tryall of the cause.

A.D 1700.

17. If the defendant doth deny the matter of the plaintiff's libell, and put himselfe upon the country, a jury shall be summoned to try the fact, and the damages the plaintiff hath sustained; and in case the substance of the libell is confest in the defendant's answer, and matter of justification is pleaded, if the plaintiff doe except against the justification of the defendant as not being sufficient, and judgment be given against the defendant, that the plaintiff shall recover against him, then a jury shall enquire of the damages, and the Writ of Inquiry of Damages shall be granted in open Court, by the Judge of the Admiralty, and shall be executed in open Court, upon the day of the returne of the mandate or Writ of Enquiry, and three days time shall be allowed between the test and returne of the said writ or mandate.

18. That three days time be allowed between the verdict and the final decree of the Court.

19. If upon any warrant or original mandate of arrest out of the Court of Admiralty, in Carolina, the officer to whom it is directed shall returne that he cannot find the person, it shall be lawfull for the Judge of the Admiralty, or his deputy, to grant a warrant to arrest the goods of such defendant where they can be found, either in his owne or others hands, in which warrant, tenn days shall be allowed betweene the date and the return.

20. The officer that executes such warrant shall give notice to all persons present, and those in whose custody the goods are, that he doth peremptorily cite the defendant and all other persons haveing or pretending right to the said goods, that they do appear at the Court of Admiralty the day of the returne of the said warrant to answer the plaintiff.

21. And the officer shall make a true returne of the execution of the said warrant, with a schedule of the goods arrested.

22. If no person shall appear to lay claime to the said goods, arrested, then the persons cited shall be decreed contumacious, and to have fallen into the first default.

23. And if they appear not in six days after, then to be pronounced to have fallen into the second default.

24. And if they appear not in six days after, then to be pronounced to have fallen into the third default.

25. And if they appear not in six days after, then to be pronounced to have fallen into the fourth default.

26. And then the judge of the Admiralty shall decree the goods arrested to the plaintiff, who shall have liberty to sell and dispose of the same towards the discharge of his debt, the said goods being first appraised, and the plaintiff haveing made oath of his debt and produced what prooffe he hath of the same, as obligations, bills, notes, &c. and giving security to the Judge of Admiralty, that if any person, except the defendant, shall lay claime to the said goods in a year and a day's time, he shall abide the decree of the Court.

27. If the defendant, whose goods are arrested, doth appear and give caution in double the sume of the action to abide the decree of the Court, his goods shall be again delivered to him, and the plaintiff, at the same time, shall give security to pay costs in case he faile in his suite, and shall offer his libell and shall proceed in all things as above directed, where the person is arrested.

28. If any person doth appear and lay claime to the goods arrested, and prove them to belong to him, he shall have them adjudged to him, and the plaintiff shall pay him costs; if he doth not prove they belong to him, then he shall pay the plaintiff costs, and security shall be given both by the plaintiff and defendant in the sume of tenn pounds, to pay the costs as

A. D. 1700.

adjudged, and the goods to remain under arrest till decided, except the person that layes claime to them give security to the value of said goods, who upon such security, shall have them delivered to him; and the person that layes claime to the said goods shall offer his allegacions of his right to the said goods so arrested.

29. And the plaintiff, at whose suite they are arrested, shall plead to the same in three day's time at farthest, and then the process shall be the same as in other civill causes.

30. If any new matter or thing shall arise that doth not fall exactly within the aforesaid Rules, the Judge of the Court of Admiralty in Carolina, or his deputy, shall proceed as near as conveniently may be agreeable to the aforesaid Rules, and the practice of the Court of Admiralty, allways allowing the plaintiff reasonable time to prosecute, and the defendant time to make his defence, and always in civill matters accepting security for the discharge either of the persons or their goods or effects.

II. *And be it further enacted* by the authority aforesaid, that if the Judge of the Court of Admiralty in Carolina, or his deputy or deputies, assistant or assistants, shall make any breach of any of the Rules and Orders contained herein, that he or they shall forfeite to the partie grieved, his full damages, with double costs of suite to be recovered as aforesaid.

III. *And be it further enacted* by the authority aforesaid, that in all cases wherein any offence is committed by the deputy Judge or Judges of the Court of Admiralty against the true intent and meaning of this Act, and a forfeiture is given to person or persons grieved for the same, it shall be lawfull for the said person or persons grieved, their executors or administrators, to bring their actions and record the same against the deputy Judge or Judges offending, or the principall Judge, or their executors or administrators, for their respective offences.

IV. *And be it further enacted* by the authority aforesaid, that no Judge, advocate or officer of the Court of Admiralty shall demand or require any sume of money, fee or reward, for any matter, business or thing belonging to his or their respective office or place, other than so much fees as are hereafter in the respective tables directed for the things therein mentioned, any law, statute, act, custome or usage to the contrary, notwithstanding, upon penalty of the forfeiture of one shilling for every penny he or they shall take and receive for any business, thing or matter relateing to his or their office or offices more than is by this Act set downe and appointed, to be recovered, by the partie grieved, by action of debt, or on the case, as aforesaid.

THE JUDGES FEES.

	L.	S.	D.
For holding the Court of Admiralty after the finall decree upon the cause, besides the particular fees.....	03	00	00
For every Warrant or Process in which the Judges hand is required,.....	00	10	00
For every finall Decree,.....	01	00	00
For every Order or Decree,.....	00	10	00
For signeing every Bill of Sale,.....	01	00	00
For every Certificate certifying the cause,.....	00	10	00
For a Testimoniall to goe beyond the Seas, if under the Seale of the Admiralty,...	01	00	00

THE REGISTER'S FEES

	L.	S.	D.
For writing every Warrant in the Admiralty,.....	00	02	06
For a copy of every Decree of the Court,.....	00	05	00
For the reading of every Libell, Exception and Answer, each,.....	00	01	06

For writing each Subpoena.....	00	01	03	A. D. 1700.
For entering a Decree or Order.....	00	03	06	
For every Deposition.....	00	01	03	
For a Venire for the Jury.....	00	02	06	
For every Commission to examine witnesses.....	00	05	00	
For filing any paper in the Admiralty.....	00	01	03	
For every Bond.....	00	02	06	
For entering fair in a Book the Libell, Exceptions, Answers, and all other pleadings and proceedings of the Court of Admiralty, besides what is before allowed, for each sheet containeing fifteen lines to the sheet and eight words to the line, the like fee for all transcripts and copies of the proceedings of the Court,	00	00	08	

THE MASHALL'S FEES.

	L.	S.	D.
For seizing every Ship or Vessel.....	00	10	00
For seizing and bringing any person ashore from any Vessel.....	00	05	00
For every man kept on board for the safe custody of the Vessel, per diem.....	00	02	06
For taking a Baile Bond for the security of the Vessel.....	00	05	00
For executing every Venire.....	00	05	00
For executing every Subpoena in Charlestowne.....	00	02	06
For Mileage 3 pence per mile.....	00	00	03
For the Sale of Vessel and Goods, and paying the money, for each pound.....	00	01	00
For every Witness sworn in Court.....	00	00	07½
For every Commitment and Release, each.....	00	02	06
For the diet of each person per diem committed.....	00	00	07½
For the Jury for each cause.....	00	15	00

V. *And be it enacted* by the authority aforesaid, that the Register of the Court of Admiralty in Carolina, shall keep his office in Charlestown, within the said Province, and the Register shall and is hereby obliged to enter fairly into a book or books for that purpose all the proceedings of the Court of Admiralty in Carolina, upon penalty of forfeiting for every offence the sume of fifty pounds to such person or persons as will sue for the same by action of debt, in any Court of Records in this Province of Carolina, wherein no essoigne, protection, privilege, injunction, wager of law or otherwise, shall be admitted or allowed.

VI. *And be it further enacted* by the authority aforesaid, that all or any book or books, papers or records relateing to the proceedings of the Court of Admiralty in Carolina, be shewed to any person that desires sight of the same, paying the Register for the search of each thing desired, the sume of fifteen pence; and if any person desires any copies or transcript of the same, the Register is hereby obliged, with all convenient speed, to deliver the same upon payment of his fees, upon the penalty of the forfeiture of tenn pounds to the party grieved, to be recovered by action of debt as aforesaid, together with all damages he shall susteyne by denyall of such copy or transcript, to be recovered by action on the case as aforesaid.

VII. *And be it further enacted* by the authority aforesaid, that the Judge of the Court of Admiralty for the time being, or his deputy, in the absence, and without the knowledge of the Register, makeing any decree or order in any matter, cause or thing triable before him or them as Judge or deputy Judge of the Court of Admiralty in Carolina, that he or they makeing such decree or order shall within tenn days cause the same to be fairly entered in the Register's book of the said Court, upon the forfeiture of the sume of twenty pounds.

VIII. *And be it further enacted*, that the Judge of the Court of Admiralty and his deputy, and every Judge of any Court whatsoever, which shall by

A. D. 1700.

any process, original mandate, writt or process whatsoever, attach, seize, or arrest any vessell or vessells for any matter, cause or thing whatsoever, shall as soon as the goods, wares, merchandizes, tackles, boats, gunns, sailes and furnitures to her belonging are inventoried and appraised, which shall be done within tenn days after such attachment, arrest or seizure, take security for such vessell, and the goods, wares, merchandize, tackle, boats, gunns, sailes and furniture in her imported, and to her belonging, from the master or owner of such vessell, if the same shall be offered; and after security given as aforesaid, shall give possession of such vessell and all things to her belonging, to that respective master or owner; and that the Judge of the Court which shall cause any vessell to be attached or arrested as aforesaid, shall suffer the master of such vessell and any one seaman to tarry on board the same till such time as the goods, wares, merchandizes, tackle, boats, gunns, sailes and furniture are inventoried and appraised, and till security be given as aforesaid.

IX. *And be it further enacted*, that the Judge or deputy Judge of any and every Court, by whose writt, mandate or process, any vessell, goods, wares or merchandize shall be seized, attached and arrested, which shall refuse to take security as aforesaid, shall pay to the master or owner of such shipp, wares or merchandizes, full value of all imbezlements, waists, pillages and all other damages whatsoever, to be recovered by bill, playnt or information in any Court of Record within this part of the Province, wherein no essoigne, injunction, protection or wager of law shall be allowed or admitted.

X. *And be it further enacted* by the authority aforesaid, that if any shipp, vessell, goods or merchandize is seized and informed against in the Court of Admiralty, or any Court of Record within this Province, upon the acts of trade and navigation, and his Majestye's customes, the person that seizes or causes such seizure shall within tenn days after such seizure exhibitt or cause to be exhibited an information in the Court of Admiralty or any other Court of Record as aforesaid, otherwise the seizure to be taken off; and before such information is exhibited, such informer shall give good and sufficient security to the defendant in the sume of fifty pounds, that in case he faile in his said prosecution and be cast, that in such case the informer shall answer and pay unto the defendant the costs of the said suit, and upon such security given, the informer may exhibit his information, and not before.

XI. *And be it further enacted*, by the authority aforesaid, that no civill cause matter or thing exceeding twenty pounds shall be tryed in the Court of Admiralty without a jury, and that all juryes for the said Court shall be balloted out of the lyst appointed, or to be appointed for Special Courts of Pleas, and summoned in such manner as juryes for special juryes are to be summoned by an Act of Parliament intituled an Act to provide indifferent Juryemen in all causes, civill and criminal, and that the Judge of the Admiralty have the jurisdiction over them as other Judges in other Courts.

XII. *And be it further enacted*, that no jury shall be summoned to attend the Court of Admiralty till such time as all answers to all bills, exceptions to all answers, and all reasons against exceptions, be argued and decreed, and that the action be issueable without exceptions, and in case the decree shall be made against the defendant by default, the jury which were summoned to try the issue shall inquire into the damages, *Provided* always, *And be it enacted* by the authority aforesaid, that no person or persons shall be sued, impleaded, molested or troubled for any offence against this

Act, unless the party offending be sued or impleaded for the same within two years at the most after such time wherein the offence shall be committed. A. D. 1700.

*Read three times, and ratified, in open Assembly,
this 1st day of March, 1700-1.*

JAMES MOORE,
JOHN WICH,
ROBERT GIBBES,
HENRY NOBLE.

NOTE.—Repealed by Act to revive and repeal the several Acts within mentioned, Sect. 2, passed May 8th, 1703.

AN ACT FOR THE BETTER SETTLING OF PILOTAGE.

No. 182.

(The red-ink numbering of the original Act is 182 and 186: the latter Act is on the same subject and of the same date of ratification. They are both repealed by Sect. 17, of the Act under the same title, of Sept. 10th, 1702, which is expired. See this last mentioned Act, post.)

WHEREAS, by the negligence and carelessness of former Pilots, several vessells have mist this harbour, and by the fearfulness and ignorance of them severall vessells have been long detained here after they have been ready to depart this port; for the prevention thereof, and for the better security of all vessells that may hereafter be bound into this Harbour of Ashley River;

I. *Be it enacted* by His Excellency John Earl of Bath, Pallatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the Members of the Generall Assembly now met at Charlestown for the South-west part of this Province, *And it is enacted* by the authority of the same, That Capt. John Cock, junior, Capt. Henry Saltus, and Capt. Anthony Mathews, now of this Province, are hereby authorized, constituted and appointed to be Pilots of ^{Pilots} and for all and every the shippes and other vessells whatsoever that may ^{appointed.} happen and shall be designed to come into the said Ashley River. And the said Cock, Saltus and Mathews and every of them are hereby required to make it their business to look out for, and repair on board, and take care of, and discharge the parts, place and charge of Pilots, on and upon any and every shipp or vessell that shall be desirous to come into Ashley River aforesaid.

II. *And it is enacted* by the authority aforesaid, That any person or persons that shall come designing to bring any shipp or vessell into the said river, and shall or do refuse to receive on board the said pilots or ^{Pilots may} either of them, as aforesaid, that nevertheless it shall or may be lawful ^{demand their} for the said pilots which shall come first to the said vessell without the ^{fee though} Barr and offer to take charge as pilot thereof, to ask, demand and receive ^{their services} of and from the master or commander of any and every such shipp or ^{may be refused.} vessell, all and every the dues and payments as is hereafter expressed and

A. D. 1700. *therewith, but rather the inhabitants labour under greater inconveniencys thereby, Be it therefore enacted by the authority aforesaid, that every word, clause and sentence therein contained, be repealed, and is hereby declared annulled, revoked and utterly void, for ever ; any thing in the said Act to the contrary contained notwithstanding.*

*Read three times and ratified in open Assembly,
the first day of March, 1700-1.*

JAMES MOORE,
JOHN WICH,
JOSEPH MORTON,
EDM. BELLINGER,
ROBERT GIBBES,
HENRY NOBLE.

No. 180. **AN ACT TO PREVENT PRISONERS FROM MAKEING ESCAPE, AND TO
APPOINT SESSIONS AND GOAL DELIVERY TWICE EVERY YEAR.**

Preamble. WHEREAS the Right Honourable the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the Members of the Generall Assembly, now met at Charlestown for the south-west part of this Province, have thought fit, under the name of Provost Marshall, to appoint a General Goal-keeper for all the several countys and settlements in South Carolina, which Provost Marshall and Goal-keeper hath not been subjected nor lyable to such fines, forfeitures, and penalties, as the under sheriffs and goal-keepers of the Kingdom of England are lyable and subjected to by the common and statute laws thereof, which has allready been and if not prevented will be the occasion of several prisoners, as well criminals as debtors, their escapes out of Goal;

Goal-keepers to be subject to fines, &c. I. *Be it enacted*, by his Excellency John Earl of Bath, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice of the Members of the General Assembly now met at Charlestown, That the present Goal-keeper of South Carolina, and every Goal-keeper which hereafter shall be made for all or any County or part of South Carolina, by what power soever so made or under what title soever distinguished, shall be lyable and subject to all the fines, forfeitures and penalties which by the common and statute law of England the under Sheriff and Goal-keepers of prisons are lyable and subjected to for escapes of prisoners.

Powers of Goal-keepers. II. And for the better enabling of Goal-keepers, made or to be made as aforesaid, to prevent the escapes of prisoners committed to their custody, *Be it enacted* by the authority aforesaid, That every Goal-keeper, made or to be made as aforesaid, shall have and execute all the powers which by the common and statute laws of England, any Sheriff, under Sheriff or Goal-keeper, for the better ordering their respective goales and preventing of the escapes of prisoners, hath or ought to have.

Sessions and Gaol Delivery to be twice a year. III. And whereas long omissions of Sessions of the Peace and Generall Goal Delivery, may occasion such numbers of debtors and criminals to be in prison at the same time, as may encourage them to attempt to make escapes ; to prevent which, *Be it enacted* by the authority aforesaid, That

a Generall Sessions of the Peace, and Generall Goal Delivery, shall be held twice every year at least, viz. the third Wendesday in March, and the third Wendesday in October, in every County or part of South Carolina for which a Gaoler shall be appointed. A. D. 1700.

*Read three times, and ratified in open Assembly,
this first day of March, 1700-1.*

JAMES MOORE,
JOHN WICH,
JOSEPH MORTON,
EDM. BELLINGER,
ROBERT GIBBES.

NOTE.—Repealed by Sect. 45 of the Jurymen's Act of August 20th, 1731.

AN ACT FOR THE BETTER REGULATING THE PROCEEDINGS OF THE COURT OF ADMIRALTY IN CAROLINA, AND THE FEES OF THE SAME. No. 181.

WHEREAS, in order to the due administration of Justice, all Courts of Judicature ought to have settled known rules and orders for practice, that so the plaintiff may know how to prosecute, and the defendant to defend; and for as much as the Court of Admiralty, in this Province, hath not yet had any settled and known Rules and Orders for practice, whereby the plaintiff and defendant are both left at great uncertainties, for the prevention of which evil,

Be it enacted by the Right Honourable John Earle of Bath, Pallatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the consent and advice of the rest of the members of the Generall Assembly, now met at Charlestowne for the south-west part of this Province—that the following Rules and Orders shall be duely and respectively put in execution, observed and obeyed in manner hereafter mentioned.

1. That in all warrants or original mandates of arrest out of the said Court of Admiralty, there be tenn dayes allowed betweene the date and returne.

2. That if any person be arrested by warrant or original mandate of the Judge of the Admiralty, that the baile bond to the Marshall shall be for his personall appearance at the day of the return of the warrant, *Provided*, there be five days from the time of the execution of the warrant to the returne, otherwise the person arrested shall give bond to appear on the fifth day after the execution of the warrant, *Provided*, it be not Sunday, otherwise the next law day following, and the day to be ascertained in the said baile bond, together with the place where the Court of Admiralty is usually held.

3. That on the day of appearance, the defendant shall give caucion by entering into bond to the plaintiff in the penall sum of the action to abide the judgment of the Court, and to pay costs if cast; and the plaintiff at the same time and place shall give bond to the defendant in the penall sume of one hundred pounds, to pay costs in case he fail with the suite; and the said bonds shall be entered into before the Register of the Court of Admiralty.

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Justice or Magistrate whatsoever give or grant any judgment or execution against any seaman belonging to any shipp or vessell, for any debt due to any keeper of a publick house or any other person, exceeding five shillings ; and every keeper of a publick house or any other person which shall give credit to any seaman as aforesaid, for more than five shillings, shall loose the same.

By whom
disputes are to
be settled.

XII. And for the speedy determination of all differances between commanders and their seamen for matters between themselves, and also between saylors themselves, and between saylors and those which shall give them credit as abovesaid, *Be it enacted* by the authority aforesaid, that the Right Honourable the Governor, or the Governor for the time being, or the Chief Judge of the Court of Admiralty, or his deputy, with any other Justice of the Peace, have power, and are hereby impowered, to hear, judge and determine all such differances and matters, and to give execution thereupon, so that the matter in difference exceed not the sum of ten pounds.

Directors
appointed.

XIII. *And be it further enacted*, That Edmund Bellinger, Esq. Mr. John Croskeys, Mr. Tho. Pinkney, and Capt. Tho. Smith and William Smith, Esqs. or any three of them, are hereby ordered and appointed Commissioners, to give all such orders and directions to the pilots from time to time as in this Act they are impowered and required to perform.

Enacted for
two years.

XIV. *And be it further enacted*, That this Act and every thing therein contained, do continue in force two years, and no longer.

[The following is manifestly the commencement of another Act on the same subject, which I regard as being No. 186.]

No. 140.

XV. *Whereas*, an Act for the Settling of Pilotage, ratified in open Assembly, the fifth day of December, 1696, was continued by a clause in a Reviveing, Continueing and Repealing Act, ratified in open Assembly the eighth day of October, 1698, and since by a clause was continued by an Act intituled a Continueing and Reviveing Act, ratified in open Assembly the sixteenth day of November, one thousand seven hundred, *Be it enacted* by the authority aforesaid, that every word and clause in the forerecited Act for Settling the Pilotage, with the forerecited clauses relating only to the said Pilots, in the forerecited Reviveing Acts, are hereby, and none others, repealed, annulled, revoked and declared void, any thing in the said Act and forerecited clauses contained to the contrary notwithstanding.

No. 174.

XVI. *Whereas*, in an Act intituled a Continueing and Reviveing Act, ratified the sixteenth day of November, one thousand seven hundred, it is therein provided that Landgrave Bellinger, Capt. Tho. Smith, Mr. John Croskeys, Mr. Joseph Croskeys, and Mr. James Risby, be Commissioners to repair the Fort and a Platt-forme thereon to raise, with other powers to them therein granted ; *Be it enacted*, for the better and more speedy carrying on the said work, that Landgrave Edmund Bellinger, Capt. Tho. Smith, Mr. John Croskeys, Mr. Tho. Pinkneyes, Mr. Isaac Maseque, or any three of them, be Commissioners to carry on the said work, any thing in the said Act to the contrary contained notwithstanding.

*Read three times and ratified in open Assembly,
the first day of March, 1700-1.*

JAMES MOORE,
JOSEPH MORTON,
EDM. BELLINGER,
JOHN WICH,
ROBERT GIBBES,
HENRY NOBLE.

NOTE.—Repealed by Act of Sept. 10, 1702.

A. D. 1700.

No. 183.

AN Additional ACT TO AN ACT FOR LAYING AN IMPOSITION ON
LIQUORS, &c.

WHEREAS, by an Act ratified the sixteenth of November, one thousand seven hundred, being an Act to lay an Imposition on Liquors and Goods imported into this part of this Province, no duty was therein laid upon Bottle Ale;

I. *Be it enacted* by His Excellency John Earl of Bath, Palatine, and the rest of the true and absolute Lords and Proprietors, by and with the advice and consent of the rest of the Members of the General Assembly, now met at Charlestown for the south-west part of this Province, *And it is enacted* by the authority of the same, That all Ale or Beer, in bottles, which shall be imported into this part of this Province after the ratification of this Act, shall pay one penny per bottle commonly called quart bottles, and so proportionable for greater or smaller bottles, which money shall be paid unto the Publick Receiver for the time being.

II. *Whereas*, by the fore recited Act, the Publick Receiver had not sufficient power to take the entrys of goods upon oath, *Be it therefore enacted* by the authority aforesaid, that every master or merchant shall give him a true and just accompt upon oath of all such goods as are imported, upon which impositions are laid, and they are hereby required to give a true and full accompt upon their corporall oath, before the Receiver for the time being, of all such goods as aforesaid, imported in his ship or vessell, and upon their refusall to give such entrys upon oath, before the Receiver, shall forfeit the sum of one hundred pounds.

III. *Be it also enacted* by the authority aforesaid, That every merchant exporting any Skins or Furs, before they are put on board any boat or other vessell, in order to the exporting of the same, shall take an oath before any of his Majestie's Justices of Peace, as is appointed by an Act to lay an Imposition on Skins and Furs, for the defence and publick use of this county; which entry upon oath made before the said Justice shall be shewen to the Receiver, who shall enter the same in a book, therein mentioning the merchant's name, the name of the master and shipp on which the same are to be shipt, with the quantity of the Skins and the date of entry, with the Justice's name who took the same, and shall then give a permit for the shipping of the same, which permit shall be signed by the Justice who first took the entry upon oath, who is also hereby required to file the said entry and to deliver the same to the House of Commons as often as notice shall be thereof given.

IV. *And whereas* all masters of vessells have now an opportunity if they please of defrauding the publick, in exporting of Skins and Furs without paying of duties, according to the fore recited Act, *Be it also enacted*, That all masters are hereby required, before they depart this port, to deliver to the Receiver for the time being, upon his oath, to the best of his knowledge, a full and true account of all and every the chest, caske, baile, bundle, fardle or parcell of Skins or Furs, and the names of the owners that shipt them, and upon his refuseall shall forfeit one hundred pounds.

V. *And be it also enacted* by the authority aforesaid, That all fines and forfeitures that shall accrue or become due by this Act, shall be sued and recovered in such manner and forme and for such use as fines and forfeit-

A D. 1700. ures in an Act for laying an Imposition on Liquors and Goods imported, is ordained and appointed.

VI. *And be it further enacted* by the authority aforesaid, That this Act do continue in force untill the sixteenth day of November, one thousand seven hundred and two, and no longer.

*Read three times, and ratified in open Assembly,
the first day of March, 1700-1.*

JAMES MOORE,
JOHN WICH,
JOSEPH MORTON,
EDM. BELLINGER,
ROBERT GIBBES,
HENRY NOBLE.

NOTE.—See No. 175, ante. This Act is continued by Acts passed Nov. 16, 1702, and Nov. 16, 1705. Trott says it is repealed by Act of May 6, 1703, laying an imposition on Furs, Skins, Liquors, &c. Sed quere.

No. 184. AN ACT to raise the Currant Coin, and for the promoting of the Currency of Heavy Money.

(Ratified March 1, 1700-1. For two years. Continued by the Revising and Continuing Act of May 7, 1709, for two years. Expired. The original Act not now to be found.)

No. 185. AN Additional ACT TO AN ACT FOR THE ASCERTAINING OF GAGEING OF BARRELLS, &c.

Preamble.

WHEREAS several Merchants and Masters of Vessells do carry their vessells up Ashley River to purchase their loadings of Beef, Pork, and other commoditys, of and from the inhabitants of Ashley River, which is a great ease to the inhabitants, and prevents the chardge and dainger of bringing down their goods to Charlestown, which they are now forced unto for want of a Packer to pack the same. And whereas George Beddon, senior, and George Beddon, junior, Packers, appointed by an Act intituled an Act for Ascertainning the Gageing of Barrells and for Avoiding Deceipts in Selling of Beef and Pork, ratified in open Assembly the 8th day of October, 1699, haveing a considerable imploy in Charlestown, by their office and place of Packers, that they cannot attend upon every vessell that trades up Ashley River, and the quantity of Beef and Pork being very inconsiderable and the times of trade being very uncertain;

I. *Be it enacted*, by his Excellency John Earl of Bath, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the South-west part of this Province, *And it is enacted* by the authority of the same, That Thomas Gurgerfield is hereby made and appointed Packer and Gager of all Pork and Beef and all other things that by the said Act are to be packt or markt, that shall be put on board of any vessel or vessels in Ashley

Gager
appointed.

River, and shall have and receive the fees of all such goods so packt and gaged by him as aforesaid, and shall be lyable to the same fines and forfeitures and under the same penalties and restrictions as in the said Act aforesaid for the said Beddons is provided, to be recovered in such manner and form and for such use as fines and forfeitures against the said Beddons in the said Act is ordained and appointed. A. D. 1700.

II. *And be it further enacted* by the authority aforesaid, That this Act and an Act intituled an Act for the Ascertaineing the Gaugeing of Barrells and for the avoiding deceits in selling and buying Beef and Pork, ratified in open Assembly the 8th day of October, 1699, are hereby declared and enacted to be in force for, and during the time of two years, and no longer, any limitation in the fore recited Act contained to the contrary notwithstanding.

*Read three times, and ratified in open Assembly,
this first day of March, 1700-1.*

JAMES MOORE,
JOSEPH MORTON,
JOHN WICH,
EDM. BELLINGER,
ROBERT GIBBES.
HENRY NOBLE.

Expired.

AN ACT for the Better Settling of Pillotage.

No. 186.

(Ratified March 1, 1700-1. See No. 182. Repealed by Act of Sept. 10, 1702, and not revived by Act of April 9, 1706. This Act seems to be identical with the latter part of No. 182.)

AN ACT FOR THE INCOURAGEMENT OF KILLING AND DESTROYING
BEASTS OF PREY AND BIRDS.

No. 187

WHEREAS the Planters of this Province do yearly suffer considerable damage by birds and beasts of prey in their stocks and crops, whereby notwithstanding their continuall care, they are impoverished and discouraged; For the prevention whereof,

I. *Be it enacted* by his Excellency John Earl of Bath, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the members of the General Assembly, now met at Charlestown for the south west part of this Province, *And it is enacted* by the authority of the same, That every person or persons that shall kill or destroy the small Black Birds and Rice Birds shall receive half a royall per dozen, and for Crows, Jack Daws and Larks shall receive one royall and a half per dozen, the birds or heads thereof being brought to the next Justice of the Peace and by them being burnt, to be payed out of the publick treasury by a note under the hand of the said Justice of the Peace for the time being, which said note shall be a sufficient discharge for the same.

A. D. 1700.

II. *And be it further enacted*, That whatsoever white man shall destroy and kill Wolf, Tyger, Wildcatt or Bear, shall have ten shillings for each, bringing the head thereof to the next Justice as above exprest; and every Indian for killing every Wolf, Tyger or Wildcatt, shall have for each five shillings, to be paid by the Justice and be reimbursed by the Receiver; and the heads of the said beasts are presently to be burnt or their ears cut off, in the presence of them that brings the same.

III. *And be it further enacted*, That this Act continue to be and remain in force two years and no longer.

*Read three times, and ratified in open Assembly,
the first day of March, 1700-1*

JAMES MOORE,
JOSEPH MORTON,
JOHN WICH,
EDM. BELLINGER,
ROBERT GIBBES,
HENRY NOBLE.

Repealed by Sect. 5, of Act of Sept. 10, 1702.

No. 188. *AN ACT* FOR THE PREVENTION OF RUNNAWAYS DISERTING THIS
GOVERNMENT.

WHEREAS divers ill disposed persons heretofore have and hereafter may, to the great detrement of the inhabitants of this Province, disert this Settlement by running away to Virginia and other Governments, by land; For the prevention whereof for the future,

I. *Be it enacted* by his Excellency John Earl of Bath, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, *And it is enacted* by the authority of the same, That every person or persons that shall reside or inhabit within the limits of this Government, before they depart the same by land, shall sett up his or their names in the Secretary's Office one and twenty days, or give bond in the said office with two good and sufficient securityes, in the penality of one hundred pounds, payable to the Right Honorable the Governor for the time being, in the same condition, limitation and restriction, and for the same use, as persons going off are obliged in an Act for the Entry of Vessells, to give and perform.

II. *Be it likewise enacted* by the authority aforesaid, That every person or persons so setting up his name or giveing in bonds as aforesaid, shall and are hereby required to take out a Tickett, therein specifying to what place he is bound, of which the Governor is hereby required to inform the natives thereof, that no lett or hinderance be given to them that have performed the same; but if any of the persons aforesaid, or any other person whatsoever, shall neglect or refuse to take out the said tickett, so signed as aforesaid, shall and are hereby deemed and decreed Runnaways, and shall be proceeded against as is hereafter provided.

III. *And be it further enacted* by the authority aforesaid, That if any person or persons shall depart this part of the Province to the northward of Sante River or of the southward of Savana River, without taking this tickett as aforesaid, and designing to disert this Government, or if

any person or persons shall be aiding or assisting to the Runnaways, he, she or they so apprehended and taken, or convicted of aiding or assisting as aforesaid, shall forfeit the sum of fifty pounds, or suffer six months imprisonment, to be recovered and inflicted as is hereafter appointed. A. D. 1700.

IV. *Be it further enacted*, That if any Indian or Indians shall apprehend or take or shall be assisting in apprehending or takeing any Runnaway as aforesaid, and the same shall bring back, shall have all the armes and ammunition that shall be taken in the possession of the person or persons so apprehended and taken, and such further reward as by the Governor shall be thought fitt, not exceeding twenty shillings to every Indian that shall be assisting in apprehending and takeing the said Runnaways.

V. And every white man that shall apprehend or take or shall be assisting in apprehending or takeing such Runnaways as aforesaid, shall have and receive out of the publick treasury for every such Runnaway so apprehended or taken, by an order under the hand of the Governor, not exceeding five pounds, and such order to the Receiver shall be his discharge.

VI. And for the better security of all such persons that shall endeavour to take any Runnaways, it is hereby declared lawful for any white person, or Indian in whose company there is a white person, to beat, maime or assault any person aforesaid resisting, and if such Runnaway aforesaid cannot otherwise be taken, to kill, he makeing resistance to avoid being apprehended or taken as aforesaid,

VII. *And be it also enacted* by the authority aforesaid, That all and every person and persons designeing to goe off, and performing all things as is required by this Act, his tickett being denied or the delivery delayed, upon the proof thereof before any Justice of the Peace of this part of the Province, the said Justice is hereby required and impowered to give such person or persons a tickett to depart, under his hand and seal, which shall be as good and effectual as any lycence or tickett signed by the Governor for the time being, any thing in this Act to the contrary contained notwithstanding. And the Governor for the time being or any Justice of the Peace so refuseing or neglecting to give the tickett as aforesaid, shall forfeit the sum of one hundred pounds.

VIII. *And be it further enacted*, That all fines and forfeitures inflicted by this Act, not particularly disposed of, under forty shillings, shall be recovered before any one Justice of the Peace, as is directed by an Act entituled an Act for the Tryall of Small and Mean Causes; and all above forty shillings to be recovered by originall writt, bill, plaint or information in any of the Courts of Records within this part of the Province; one moiety to be payed into the hands of the Receiver, to be disposed of by the Generall Assembly, and the other half part to him that will inform or sue for the same, wherein no protection, essoign, privildge or wager of law shall be allowed of or admitted.

IX. *And be it further enacted*, That this Act continue to be in force two years and no longer.

*Read three times and ratified in open Assembly,
the first day of March, 1700-1.*

JAMES MOORE,
JOHN WICH,
JOSEPH MORTON,
EDM. BELLINGER,
ROBERT GIBBES,
HENRY NOBLE.

A. D. 1701.

No. 189. AN ACT for the Better Settling and Regulating the Militia, and Appointing Look-Outs.

(Ratified August 28, 1701. For two years. Expired. See the Militia Acts in the concluding volume. The original Act defective through age and damp.)

No. 190. AN ACT for Settling a Watch in Charlestown, and for Preventing Fires and Nuisances in the same, and for Securing Twenty Foot on each side of the Half Moon, for Publick Landing Places.

(Ratified August 28, 1701. The original Act not now to be found.)

No. 191. AN ACT for the Better Ordering of Slaves.*

(Ratified August 28, 1701. For seven years. Revived and continued for one year by the Reviving Act of April 8, 1710. Continued for two years by the Reviving Act of June 28, 1711. Repealed by Sect. 35 of Act on this subject of June 7, 1712. The original of the present Act not now to be found.)

No. 191. AN ACT FOR RAISING MONEY FOR THE PUBLICK USE AND DEFENCE OF THIS PROVINCE.

Preamble.

WHEREAS, the want of a public store of provisions and ammunition hath and may render the inhabitants of this Province incapable to make such speedy and effectual defence against the invasion of an enemy as may be necessary to repel the same, and forasmuch as nothing can conduce more to enable a people to defend themselves against the incursion of an enemy than timely notice, for the prevention of such want of stores, ammunition and provisions, and also that good and sufficient watches may be kept and maintained at the public charge, so that timely notice may be given to the inhabitants of this part of the Province to prevent surprize, &c.

A tax of £550 imposed.

I. *Be it enacted* by his Excellency John Earl of Bath, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the Members of the General Assembly, now met at Charlestown, for the South-west part of this Province, *And it is enacted* by the authority of the same, that a tax of five hundred and fifty pounds be equally assessed, imposed and leavyed upon the severall inhabitants, merchants and others (not servants for term of years) which now are resident in that part of this Province that lyes

* Not being able to settle the true number of this Act for want of the original, and the discordance between Trott and Grimke's numbering, I have made two numbers 191.

south and west of Cape Fear, or that have estates or merchandizes within the same, according to their severall estates, stocks and abilities, or the profits that any of them do make off or from any public office or employment in this part of this Province, to be collected and paid in manner and form hereafter mentioned.

A. D. 1702.

II. *And it is further enacted* by the authority aforesaid, That Alexander Thezee Chastaigner, John Gendron, Mr. Johnson Lynch, Mr. John Guppell, Mr. Peter Guerard, Lieutenant Colonel George Dearsley, Major John Boone, Mr. Richard Beresford, Captain George Smith, Mr. Robert Mackewn, Mr. John Stevens, Mr. William Canty, Mr. Shem Butler, Captain John Godfry, Mr. John Bird, Captain Alexander Parris, Mr. Lewis Pasquereau, Mr. Joseph Boone, George Logan, Esq., Mr. Edward Drake, Joseph Ellicott, Mr. John Stanyarne, Mr. Robert Seabrook, Mr. John Whitmarsh, Mr. Lawrence Dennis, Mr. John Dedcott, Mr. John Jackson, Captain Thomas Nairne, Mr. Edmund Dundon, or any fifteen of them, upon their oaths, administered by any one Justice of the Peace, shall be and are hereby impowered and appointed to assess the said tax of five hundred and fifty pounds, as well upon their own stocks, estates and abilities whatsoever, as upon every the said persons within this Province as aforesaid; and they the said Alexander Thezee Chastaigner, Mr. John Gendron, Mr. Johnson Lynch, Mr. John Guppell, Mr. Peter Girard, Colonel George Dearsley, Major John Boone, Mr. Richard Beresford, Captain George Smith, Mr. Robert Mackewn, Mr. John Stevens, Mr. William Canty, Mr. Shem Butler, Captain John Godfrey, Mr. John Bird, Captain Alexander Parris, Mr. Lewis Pasquereau, Mr. Joseph Boone, George Logan, Esq. Mr. Edward Drake, Mr. Joseph Ellicott, Mr. John Stanyarne, Mr. Robert Seabrook, Mr. John Whitmarsh, Mr. Lawrence Dennis, Mr. John Dedcott, Mr. John Jackson, Captain Thomas Nairne, Mr. Edmund Dundon, are required to meet at Charlestowne, at the house of Major William Smith, on the seventh day of October next, and then and there before they depart thence, justly, equally and indifferently assess the said sum of five hundred and fifty pounds upon all and every the inhabitants of this part of this Province aforesaid, and the assessment so made, fairly under their hands and seals to indent, expressing the names of all and every persons so assessed, with the sums of money each person is assessed, with the value of his or her estate, and how much he or she is rated per pound, before the respective name of each person, and the said indentures so signed and sealed by them or any fifteen of them, shall immediately deliver one of them to the Clerk of the House of Commons there to remain as a record, and the other unto Captain Thomas Smith, publick Receiver, who by himself or his deputy or deputies, shall at or before the first day of December next give notice to every person assessed as aforesaid, either personally or by leaving a note thereof at his or their house, or usual place of abode, of the sum of money they are taxed or assessed, and at how much per pound he is assessed, as in the schedule of assessment is expressed, with the time and place of payment thereof.

Assessors
appointed.

III. *And it is hereby further enacted* by the authority aforesaid, That all and every person so assessed as aforesaid, shall at or before the first day of January next pay unto the said Receiver or his deputy in Charlestowne, the sum of money he was assessed, in the currant money of this Province; and in case any person or persons, after notice given him or them, shall refuse or neglect to pay the sum of money he or they are assessed as above mentioned, then the Receiver or his deputy is required forthwith to give the name and place of dwelling of every such person or persons so neglecting or refusing to pay the sum of money he is taxed as aforesaid,

Proceedings
against
delinquents.

A. D. 1702.

Goods
distrained

with the sum of money he is taxed, unto any one Justice of the Peace, who is hereby required and impowered forthwith by his warrant under his hand and seale, to the next constable respectively directed, who is hereby required to give due obedience in execution thereof, to distrain the person or persons so refusing or neglecting to pay his or their assessment, by his or their goods and chattels, and the distress so taken to keep three days, and if the owner thereof doth not within the said three days pay the sum he is taxed according to this Act, with the charges of distraining and keeping the said distress, to be appraised by any two or three of the inhabitants in the neighborhood where the said distress is made, (the appraisers being first sworn before any one Justice of the Peace;) and the constable making the distress as aforesaid, is hereby required to deliver the said distress, or as much of it as by the said appraisement doth amount to the sum of money the owner thereof was assessed, to the Receiver or his deputy in Charlestowne, and the overplus (after the charges of distraining, keeping and appraising is satisfied) to the owner thereof to return; and if no distress can or may be found, whereby the rates of any person may be leavyed, in every such case the constable to whom such warrant as above mentioned was directed, shall forthwith make return accordingly to the Justice of Peace who gave out the said warrant, or to any other Justice of Peace; and the said Justice of Peace to whom such return shall be made, is hereby required and authorized by his warrant, under his hand and seal, to commit such person or persons to the common gaole, there to be kept without bayle or main prize until he or they shall pay the sum of money they were taxed as above enacted.

Persons over-
rated may
complain.

IV. And if any person or persons certified, assessed or rated, for or in respect of any matter or thing for which by this Act he or they is rated or charged, do find him or themselves grieved with such rateing, shall ten days before such assessment ought to be paid to the Receiver, complaine or appeale to the commissioners, Edmund Bellinger, Esq. Mr. James Le Serurier, Dr. Smith and Mr. John Buckley, or any two of them, and the Commissioners aforesaid, or any two of them, shall and may examine any person or persons so complaining, upon his or their corporal oaths, touching the value of his or their real and personal estates as aforesaid, and upon due examination, abate or default proportionably the said assessment, and the same so abated shall be certified by the commissioners aforesaid, or any two of them, to the Receiver, and such assessment so certified as aforesaid, shall be deemed firme and valid, and to that end the Commissioners are hereby required to meet together for the determining of such complaint and appeales accordingly.

Penalty on
neglect of duty.

V. *And be it further enacted* by the authority aforesaid, that if any Assessor, Justice of Peace, Commissioner of Appeals, Constable, Appraizer or Receiver, shall refuse or neglect to perform his duty in execution of this Act, or any part thereof, every one neglecting or refusing shall forfeit (to be recovered by bill, plaint or information in any Court of Record within this Province, wherein no protection, injunction, privilege or wager of law shall be allowed or admitted of) twenty pounds for each neglect or refusal, one moiety to be paid into the hands of the publick Receiver, for the use of the publick, the other moiety to him or them that shall inform or sue for the same.

Appropriation.

VI. *And be it further enacted*, that all and every the sum and sums of money to be leavyed or otherwise arising by virtue of this Act, shall be paid as aforesaid to the public Receiver for the maintaining of look-outs, buying oares, canoes, guns and ammunition, with provisions to serve in imminent danger, to be paid for out of the monies arising by this Act, by

order or orders of the Generall Assembly, except such moneys for the maintaining of look-outs, appropriated in an Act entituled an Act for the better settling and regulateing the militia, and for appoynting look outs. A.D. 1702.

VII. *And be it likewise enacted* by the authority aforesaid, that the publick Receiver for all dues, fines and forfeitures ariseing and payable to him for the use of the publick, by virtue of this Act, or any other Act or ordinance whatsoever, shall an account thereof fairly keep, and be accountable only from time to time to the Commons, when and as often as he shall by them be thereunto required. Public Receiver to keep accounts.

VIII. *And be it further enacted*, that the Assessors, or any fifteen of them, are hereby impowered by an order under their hands, to draw out of the public for defraying their necessary expenses in the said assessment, any sum not exceeding the sum of fifteen pounds, to be paid by the Receiver on the first day of January next, which said order so certified shall be allowed and paid out of the moneys arising by virtue of this Act. Necessary expenses to be paid.

*Read three times and ratified in open Assembly,
the 28th day of August, 1701.*

JAMES MOORE,
JOSEPH MORTON,
ROBERT DANIELL,
EDM. BELLINGER,
ROBERT GIBBES.

Obsolete, (per Trott.)

AN ADDITIONAL ACT to provide indifferent Jurymen in all Causes, Civil and Criminal. No. 192.

(Ratified February 3, 1701-2. See No. 119. Repealed by Sect. 45 of the Jury Act of 20th August, 1731. The original Act not now to be found.)

AN ORDINANCE of the General Assembly directing the manner how the Juries shall be drawn. No. 193.

(Same date with No. 192. Repealed by Act of 20th August, 1731. The original Ordinance not now to be found. This and the preceding are in fact one and the same Act.)

AN ADDITIONAL ACT for the mending of Highways, &c. No. 194.
(Ratified February 3, 1701-2. The original Act not now to be found.)

A. D. 1702.

No. 195.

AN ACT TO REVIVE THE SEVERAL ACTS WITHIN MENTIONED.

WHEREAS, severall of our temporary laws are expired, which if not revived and continued may prove prejudicial to the welfare of this Collony.

- I. *Be it therefore enacted* by His Excellency the Pallatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the consent and advice of the rest of the members of the Generall Assembly, now met at Charlestowne for the south-west part of this Province, *And it is enacted* by the authority of the same, that an Act entituled an Act for the entry of Vessella, ratified in open Assembly the eighth day of October, one thousand six hundred ninety and eight; and an Act entituled an Act for ascertaining publick Officer's fees, ratified in open Assembly the eighth day of October, one thousand six hundred ninety and eight; and also an Act entituled an Act inhibiting the tradeing with servants and slaves, ratified in open Assembly the sixteenth day of March, one thousand six hundred ninety five; and an Act entituled an Act to prevent Mariners and Seamen running into debt, ratified in open Assembly the sixteenth day of March, one thousand six hundred ninety five, *Are hereby* declared revived and enacted to be in full force for and during the full term and time of twelve months, and no longer, from and after the ratification hereof, any limitation in the forerecited Acts contained, to the contrary notwithstanding.

*Read three times, and ratified in open Assembly,
this 3rd day of February, 1701-2.*

JAMES MOORE,
ROBERT DANIELL FOR THE
LORD CRAVEN,
EDM. BELLINGER,
ROBERT GIBBES,
HENRY NOBLE,
ALEXANDER PARRIS.

- No. 196. AN ACT TO PREVENT ABUSES BY FALSE WEIGHTS AND MEASURES, AND TO APPOINT A SWORNE MEASURER, WITH A CLAUSE TO PREVENT THE SCARCITY OF SALT.

WHEREAS, the makeing and using false weights and measures greatly tend to the oppressing of the poor and deceiving of all others, for the prevention thereof,

I. *Be it enacted* by his Excellency the Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the Generall Assembly now met at Charlestowne for the south-west part of this Province, that for the better discovering of all deceits in weights and measures, and other abuses contrary to the intent of this Act, that Mr. John Lawrence (being duly sworne truly and faithfully to discharge the said trust) be and is hereby appointed to survey, seale or mark all weights and measures within this part of this Province, and that he have power and is hereby impowered and obliged to search, examine, try and mark all weights and measures in

Public Marker
appointed.

Charlestown, at the respective houses of the owners, sometime within twenty days after the ratification of this Act, and shall examine, try and search all weights and measures as often as he shall have reason to suspect any person or persons keeps and makes use of false weights and measures; and all persons not inhabiting in Charlestowne shall within two months after the ratification of this Act (or before they buy or sell with the same) bring their weights and measures to the dwelling house, in Charlestowne, of the said John Lawrence, to be tryed and marked, and so many as are found good, this mark **** thereupon to put, and all that are found defective and not good after the times above mentioned, to burn or cut in peices; and that all and every person and persons shall pay for marking every measure, great or small, half a royall; and for every sett of troy weights, from a grain to an ounce, inclusive, three royalls; and for every sett of troy weights from an ounce to a pound, one royall; and for every averdupoize, two pence. And that a true standard, agreeable to the standard in England, both of troy and averdupoize weights, and of all measures, may not be wanting in this part of this Province, the said John Lawrence is hereby required to provide and procure the same, and in his possession to keep, that all differences and disputes which shall or may happen to arise concerning the same, may be speedily determined, and the deceits thereof timely prevented.

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Standards to be kept agreeable to the English standards of weights and measures.

II. *And be it enacted*, that if any person or persons shall keep and use double weights and measures, viz. one to sell withall, and another to buy with, or which shall keep and use other weights and measures than such as are marked, or that shall, after marked, any way alter the same, shall forfeit for every time he or they are convicted thereof, tenn pounds, to be recovered by bill, plaint or information, in any Court of this part of this Province, one moiety thereof to be paid into the hands of the publick Receiver for the use of the country, and the other moiety to him or them that will sue for the same; and for want of effects to levy the same upon, shall suffer three month's imprisonment without baile or mainprize.

Penalty on double weights and measures.

III. *And be it further enacted*, that no person or persons whatsoever do presume to counterfeit or set the mark before appointed upon any weight or measure whatsoever, upon the pain of the forfeiture of five pounds for every such offence, to be recovered and disposed of as in the clause last before mentioned is provided.

Counterfeiting the mark.

IV. And for the speedy decideing of differences and disputes that shall and may arise concerning the equall and exact measureing or guageing of board, plank timber, casque, or any other thing whatsoever, *It is hereby enacted*, That John Lawrence being first duly sworn be and is hereby appointed publick Measurer of this part of this Province, and impowered to determine all such differences and disputes which shall happen concerning the same, and that he receive and have three pence the hundred for measuring boards, and all flatt measure, and three pence the tun for all timber, and so proportionable for a greater or lesser quantity, and half a royall per casque for liquid things. And upon default or neglect of the said John Lawrence in the due and just execution of the said places, that the Right Honourable the Governour, or the Governour for the time being, is desired and hereby impowered to remove and displace the said John Lawrence, and to nominate and appoint any other person in his stead that he shall judge fitt to perform the said trust and place.

Public Inspector of measures appointed.

V. *And it is further enacted*, That if the said John Lawrence shall either willfully or fraudulently abuse, neglect, deny or refuse to perform all and every thing required and appointed by this Act, shall forfeit for each and every default the sum of forty shillings, to be recovered by warrant under

Misbehaviour in office.

A. D. 1702.

the hand of any one or more Justices of the Peace, in like manner and form as in an Act entituled an Act for the tryall of small and Meane Causes, is ordained and appointed.

VI. And for the prevention of differences and disputes frequently arising between parties paying and receiving money by weights, *Be it enacted* by the authority aforesaid, that the said John Lawrence be and is hereby appointed to end and determine all differences that shall or may arise between any persons whatsoever, of or concerning the currant weight of any of the gold or silver money in this part of the Province; and it is hereby enacted and concluded, that the weight of gold and silver money shall be accounted good when the money doth stand right or equiponderate with the weights; and that the said John Lawrence shall receive for the same, half a royall for any sum not exceeding five pounds, and so proportionable for any greater sum, to be paid by such person who shall refuse to pay or receive the said money at its true weight or value.

Salt at five
royalls a bushell
not to be
exported

VII. And to prevent the scarcity of salt, *Be it enacted* by the authority aforesaid, that any person whatsoever that shall directly or indirectly ship, to be exported, any quantity of salt, when the same is commonly sold at five royalls or more the bushell, shall forfeit for every bushell so shipped, to be exported, the sum of twenty shillings, to be recovered by bill, plaint or information in the Court of Pleas, one half thereof to the informer or prosecutor, and the other moiety for the publick use.

VIII. *And be it further enacted*, that this Act and every thing therein contained, do continue in force the full term and time of two years, and no longer.

*Read three times, and ratified, in open Assembly,
the 3d day of February, 1701-2.*

JAMES MOORE,
ROBERT DANIELL FOR THE
LORD CRAVEN,
EDM. BELLINGER,
ROBERT GIBBES,
HENRY NOBLE,
ALEXANDER PARRIS.

NOTE.—Expired. The Royall above mentioned, I take to be the eighth of a dollar.

No. 197.

AN ACT TO ERECT A GENERALL POST OFFICE.

WHEREAS, severall forraigne letters are imported into this part of the Province, therefore, for the maintenance of mutual correspondence, and prevention of many inconveniences that may happen by mis-carriages of the same, and that an office may be managed so that safe dispatch may be had, which is most likely to be effected by erecting one Generall Post Office for that purpose :

I. *Be it therefore enacted* by His Excellency John Granvill, Esq., Pallatine, and the rest of the true and absolute Lords and Proprietors of the Province of Carolina, by and with the advice and consent of the rest of the members of the Generall Assembly now met at Charlestowne for the south-west part of this Province, *And it is enacted* by the authority of the

same, that every master of every ship or vessel which shall arrive into any port of this part of the Province shall deliver all and every the letters that are in his custody to Mr. Edward Bourne, and to no other person whatsoever; and the said Bourne is hereby required and commanded before he shall deliver any letter or letters to any person or persons to make an exact list of all the said letters so received as aforesaid, which said list shall be fixed in some publick place in the house of the said Bourne, there to remain thirty days, and the letters therein nominated shall carefully deliver to every person to whom they are directed, or to such other person as shall be sent for the same; and opposite to each particular name in the aforesaid list shall write the name of the person to whom he delivered the said letter, that each person concerned and contained in the said list may know who received his or their letter; and the said Bourne for each and every packet or letter received and so delivered, shall receive one half royall and no more.

A. D. 1702.

Commanders of vessels to send their letters to Mr. Edward Bourne, and no one else.

II. *And be it further enacted* by the authority aforesaid, that if the said Bourne shall neglect or refuse to perform all and every the particulars required of him by this Act, shall forfeit for each offence the sume of forty shillings, to be recovered as by an Act of small and mean causes is ordained and appointed.

Penalty on the Post Master neglecting his duty.

III. *And it is likewise enacted*, that the said Bourne shall and is hereby appointed Post Master, to receive all such letters as aforesaid, and no other person whatsoever; any thing in an Act entitled an Act for the raising of a Publick Store of Powder for the defence of this Province, ratified in open Assembly the eighth day of October, one thousand six hundred ninety-eight, contained to the contrary, notwithstanding.

Postmaster appointed.

*Read three times, and ratified in open Assembly,
this 10th day of September, 1702.*

JAMES MOORE,
ROBERT DANIELL,
ROBERT GIBBES,
EDM. BELLINGER,
JOSEPH MORTON,
HENRY NOBLE,
ALEXANDER PARRIS,
GEORGE DEARSLEY.

NOTE.—Repealed by Act of September 17, 1703.

AN ACT for Raising the Sum of Two Thousand Pounds, of and from the Real and Personal Estates, and of and from the profits and revenues of the Inhabitants of this Province, for the carrying on this present expedition against St. Augustine, and for appointing the number of Men and Ships to be made use of, and the manner and method of going against the said place.

No. 198.

(Ratified Sept. 10, 1702. The original Act, now expired, is not to be found.)

A. D. 1702.

No. 199.

A CONTINUEING, REVIVEING AND REPEALING ACT.

See note at the
end of the Act.

BE IT ENACTED by his Excellency John Granvill, Esq. Pallatine, and the rest of the true and absolute Lords and Proprietors of the Province of Carolina, by and with the advice and consent of the rest of the members of: the General Assembly, now met at Charlestown for the south-west part of this Province, *And it is enacted* by the authority of the same, That an Act entituled an Act to lay an Imposition on Liquors and Goods imported into this part of the Province, for the defence and support of this Government, ratified the sixteenth day of November, one thousand seven hundred, and also an Additional Act to an Act for laying an Imposition on Liquors, &c., ratified in open Assembly the first of March, one thousand seven hundred, are hereby enacted to be and continue in force to the sixteenth day of November, in the year of our Lord one thousand seven hundred and three, any limitation in the said Acts contained to the contrary notwithstanding.

II. *And be it likewise enacted* by the authority of the same, That an Act for laying an Imposition upon Skins and Furs, for the defence and publick use of this Country, ratified in open Assembly the sixteenth day of March, one thousand six hundred ninety five, and since continued by an Act entituled an Act to lay an Imposition on Liquors, &c., ratified in open Assembly the sixteenth day of November, one thousand seven hundred, is hereby declared and enacted to be and continue in force until the sixteenth day of November, in the year of our Lord one thousand seven hundred and three, any thing in the afore recited Acts contained to the contrary notwithstanding.

III. *And be it further enacted* by the authority aforesaid, That an Act entituled an Act for Regulating Publick Houses and to Ascertain the Prices of Liquors, ratified in open Assembly the 16th day of March, one thousand six hundred ninety five, and since continued by the last paragraph of an Act entituled an Act to continue and revive several Acts within mentioned, ratified in open Assembly the six and twentieth day of August, one thousand six hundred ninety nine, is hereby declared to be revived and continued to be in force for the time of two years from the ratification hereof, provided the present Governor, the Hon. James Moore, Esq. continue so long in this Government, any limitation in the afore recited Act or paragraph in the said recited Act contained to the contrary notwithstanding.

IV. *And be it also enacted* by the authority aforesaid, That an Act for Raiseing of a Publick Store of Powder for the defence of this Province, ratified in open Assembly the eighth day of October, one thousand six hundred ninety eight, and since continued by a Continueing and Reviveing Act, ratified in open Assembly the sixteenth day of November, one thousand seven hundred, is hereby declared and enacted to be and continue in force to the sixteenth day of November, one thousand seven hundred and three, any limitation in the said Acts contained to the contrary notwithstanding.

V. *And be it further enacted* by the authority aforesaid, That an Act entituled an Act for Encourageing of Killing and Destroying Beasts of Prey and Birds, ratified in open Assembly the first day of March, one thousand seven hundred, is hereby declared repealed, annulled and revoked, any limitation in the said Act contained to the contrary notwithstanding.

VI. *Whereas*, every person that holds by grant or any mean conveyance, any lott or part of a lott fronting the Wharf of Charlestown, is

bound under certain penalties, as is provided in an Act entitled an Act to prevent the Seas further incroachment upon the Wharf of Charlestown, ratified in open Assembly the sixteenth day of November, one thousand seven hundred, to build the front wall thereof in twenty-four months after the ratification thereof, and for as much as the time limited in the said Act is near expired, so that it is impossible for the said wall to be finished in the limited time aforesaid, *Be it therefore enacted* by the authority aforesaid, That all and every the persons concerned in building the said wall shall have and are hereby declared to have twelve months longer time to build the said wall than is limited in the said Act, any thing in the said Act contained to the contrary notwithstanding.

A. D. 1702.

*Read three times and ratified in open Assembly,
this tenth day of September, 1702*

JAMES MOORE,
JOSEPH MORTON,
ROBERT DANIELL,
EDM. BELLINGER,
ROBERT GIBBES,
HENRY NOBLE,
GEORGE DEARSLEY,
ALEXANDER PARRIS.

NOTE.—By this Act Nos. 175 and 183 are continued to the 16th of Nov. 1703; the Act No. 129 is continued; the Act 130 is continued for two years, if James Moore continue so long to be Governor; the Act No. 166 continued to the 16th November, 1703; the Act No. 187 is repealed; additions are made to the Act No. 173. (Now obsolete, per Trott.)

AN ACT FOR THE BETTER SETTLING OF PILOTAGE.

No. 200.

WHEREAS, by the negligence and carelessness of former Pilots, several vessells have mist this harbour, and by the fearfulness and ignorance of them severall vessells have been long detained here after they have been ready to depart this port; for the prevention thereof, and for the better security of all vessells that hereafter may be bound into this Harbour of Ashley River;

I. *Be it enacted* by His Excellency John Granvill, Esq. Pallatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the Members of the Generall Assembly now met at Charlestown for the South-west part of this Province, *And it is enacted* by the authority of the same, That all persons whatsoever, now of this Province, that shall be deemed fitting and qualified to be pilots, and shall be hereby authorized, constituted and appointed to be pilots by the Commissioners hereafter nominated and appointed for that purpose, shall be the pilots of and for all and every the shippes and other vessels whatsoever that may happen and shall be designed to come into the said Ashley River. And the said pilot or pilots, so nominated, constituted and appointed as aforesaid, and every of them, are hereby required to make it their business to look out for, and repair on board, and take care of, and discharge the parts, place and charge of Pilots, on and upon any and every shipp or vessell that shall come into Ashley River as aforesaid.

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To be sworn.

II. *And it is enacted* by the authority aforesaid, That all pilots and every of them so nominated, constituted and appointed by the said Commissioners, shall before he or they enter upon the said office or place of pilotage, be sworn that they shall not directly or indirectly be copartners in bringing in or carrying out any vessell or vessels except such as draw above twelve feet water; and also they, the said pilots, shall be sworn that they directly or indirectly, for themselves or any other person or persons whatsoever, shall not deal or bargain for or desire the refusal of any goods, wares or merchandize, that any master or commander of any vessell or vessels, or any other person belonging to them, shall have to sell or dispose of, untill such vessels shall be duely entered in the Secretary's office in this Province.

In case of refusing to receive a pilot.

III. *And it is further enacted* by the authority aforesaid, That any person or persons that shall come designing to bring any ship or vessell into the said river, and shall or do refuse to receive on board the said pilots or either of them, as aforesaid, that nevertheless it shall or may be lawful for the said pilots which shall first come to the said vessell without the Barr and offer to take charge as pilot thereof, to ask, demand and receive of and from the master or commander of any and every such shipp or vessell, all and every the dues and payments as is hereafter expressed and provided, in as full and ample manner as if he had piloted the said shipp or vessell into the said river.

Pilots made liable.

IV. *And it is further enacted* by the authority aforesaid, That if any shipp or vessell whatsoever shall happen to receive any damage, miscarry, or be lost through the neglect, insufficiency or any other defect in or by any such of the pilots as shall take charge of the said shipp or vessell, that then and in such case, the said pilot or pilots so takeing charge, shall answer for and make good all and every the damages and losses so sustained and done as aforesaid.

Fees not to be paid to persons not pilots.

V. *And it is further enacted* by the authority aforesaid, That if any other person or persons not nominated, constituted and appointed by the Commissioners for that use, shall presume to undertake the care and charge of a pilot, and shall bring into the said river any shipp or vessell whatsoever, he or they so presuming and undertaking, shall not have or receive any reward, but shall be and are liable to pay and make full satisfaction for all and every the damages and miscarriages that shall and may happen by such their presumption and undertaking as aforesaid.

Cooper River.

VI. *And be it further enacted* by the authority aforesaid, That the master or commander of any and every shipp or vessell, for and in consideration of the pilotage of his shipp or vessell into Cooper River, before Charlestown, shall pay unto him or them of the said pilots that shall take charge as aforesaid, such sum or sums of money as is hereafter expressed and appointed by this Act, as full and ample satisfaction unto the said pilot for his care and charge, as well for the carrying out as bringing in of any shipp or vessell as aforesaid; That is to say, the commander or master shall pay unto the said pilot, for any shipp or vessell of the draught of seven feet water or under, that shall be brought into Cooper River and carried out through the North Channell, the sum of forty shillings of currant money of this Province; and for every shipp or vessell that shall draw more than seven and so upwards unto nine feet inclusively, and no higher, ten shillings per foot exceeding the said seven feet, together with the sum of forty shillings abovesaid.

VII. And for the better incouragement of the knowledge and use of the South Channell, *Be it enacted*, that every master and commander of any

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and every shipp or vessell shall pay unto the said pilot or pilots forty shillings currant money of this Province, for every shipp or vessell drawing seven feet water which he or they shall bring in or carry out through the South Channell aforesaid; and for every shipp or vessell drawing more than seven feet, twenty shillings for every foot exceeding the said seven feet, together with the sum of forty shillings aforesaid, appointed for the bringing in of vessells into the South Channel drawing seven feet water, as aforesaid; *Provided*, the master doth consent to be brought in or carried forth of the said South Channell: which payment shall be in full for bringing in and carrying out of any shipp or vessell as aforesaid. And if it so happen that any shipp or vessell shall draw above seven feet as aforesaid, and that the draught so amounting be not to a just foot or number of feet, then the overplus shall be payed in the equall proportion with each foot so exceeding the seven feet aforesaid. *Provided alwayes*, and it is the true intent and meaning of this Act, that no master or commander of any shipp or vessell whatsoever shall be obliged to pay the pilotage aforesaid, unless the pilot or pilots shall without the Barr tender him or themselves as pilots of the said River, any thing in this Act contained to the contrary notwithstanding.

VIII. *And it is further enacted* by the authority aforesaid, That if the commander or master of any shipp or vessell shall neglect, refuse or deny to pay or secure to be paid all and singular the aforesaid sum or sums of money, in such case it shall and may be lawfull for the pilot and pilots aforesaid to attach the said commander or master, or his or their shipp or vessells, so that the said master or commander or his said shipp or vessell shall be held and continued in the custody of the law, untill the said pilot or pilots shall be fully sattisfied and paid or secured to be paid as aforesaid, together with all the costs that shall accrue by reason of the nonpayment aforesaid. Remedy by attachment granted.

IX. *And be it further enacted* by the authority aforesaid, That in case any of the said pilots should die, go off, neglect or refuse to officiate, or upon misdemeavour, or for any other defect, shall be suspended by the Commissioners herein after named, that then and in such case it shall and may be lawfull to and for the said Commissioners, or any three of them, to name and appoint one or more in his or their places that shall go off, refuse or neglect his duty or office, and be suspended as aforesaid. Pilots dying or neglecting.

X. And whereas it may prove and be of evill consequence to this Province for the Pilots to desist officiating in their office, *Be it further enacted* by the authority aforesaid, that all and every the pilots shall not at his or their pleasure desist or refuse to officiate in his or their office, until he or they shall three months before such desisting or refusall, apply themselves to the said Commissioners nominated by this Act; whereby the country may not be destitute of good and able men to officiate in the places of such so refusing and desisting in the said place or office of pilotage. Three months notice to be given.

XI. *And be it further enacted* by the authority aforesaid, That the pilots shall have and keep two men constantly on Sullivan's Island to look out for and discover vessels upon the coast, and to do such other things as shall be necessary for giving notice to vessells of this Inlett, and of giving notice to Charlestown by makeing smoaks, as hath been usual, of what number of vessells are seen upon the coast. And that the said pilots shall each of them keep one good boat, well fitted, large enough at any time to goe out to sea, to pilot in vessells; and that the said pilot or pilots shall observe and follow such orders and instructions as they or either of them shall receive from the Commissioners hereafter named Look-outs to be kept.

A D. 1702.

or any three of them. And if such pilot or pilots or either of them shall neglect or refuse to keep two men on Sullivan's Island, as aforesaid, or shall not keep each of them a good boat as herein is required, or shall not observe such directions and instructions as herein are required, he or they being convicted thereof before the Commissioners, for each and every default shall forfeit and pay such sum and sums of money as shall be adjudged by the Commissioners or any three of them, not exceeding ten pounds, to be levied on their goods and chattells by a warrant under the hands and seals of the Commissioners, or any three of them, directed to the Marshall for the time being, to be disposed of one half to the informer, and the other half to be paid into the hands of the Receiver, for the use of the publick.

Fee on
domestic
vessels.

XII. *It is hereby further enacted*, That the said pilots respectively shall take and receive from all masters or owners of all shipp or vessels which wholly belong or hereafter shall belong to the inhabitants of this Province, and that every master or owner as aforesaid shall pay to the said pilot respectively, which shall perform the duty and office of a pilot, but half so much as any master or owner of any other shipp or vessell is before by this Act obliged and bound to pay; any thing in this Act contained to the contrary notwithstanding.

Tavern
keepers not to
trust mariners.

XIII. And for the better encouragement of Trade and Masters and Owners of Vessells, *Be it enacted*, That no keeper of a tavern, punch house, or of a publick house, or any other person or persons whatsoever, shall trust any mariner or seaman then actually belonging to any shipp or vessell, for more than five shillings; nor shall any seaman as aforesaid be kept from his imploy, or master or owners service, by any power or pretence whatsoever, for any debt contracted in any publick house or to any other person more than five shillings; nor shall any Judge, Justice or Magistrate whatsoever give or grant any judgment or execution against any seaman belonging to any shipp or vessell, for any debt due to any keeper of a publick house or any other person, exceeding five shillings; and every keeper of a publick house or any other person which shall give credit to any seaman as aforesaid, for more than five shillings, shall loose the same.

Jurisdiction
appointed.

XIV. And for the speedy determination of all differences between commanders and their seamen for matters between themselves, and also between saylors themselves, and between saylors and those which shall give them credit as abovesaid, *Be it enacted* by the authority aforesaid, that the Right Honorable the Governor, or the Governor for the time being, or the Chief Judge of the Court of Admiralty, or his deputy, or any two Justices of the Peace, have power, and are hereby impowered, to hear, judge and determine all such differences and matters, and to give execution thereupon, so that the matter in difference exceed not the sum of ten pounds.

Commissioners
appointed.

XV. *And be it further enacted*, That Edmund Bellinger, Esq. James Risbee, Esq. William Smith, Esq. Capt. Thomas Smith, Thomas Pinkney, or any three of them, are hereby ordered and appointed Commissioners, to examine, and under the hand and seal or the hands and seals of any three of them, commissionate and make all such Pilots, and if need be the same to displace and turn out, and moreover to give all such orders and directions to the pilots from time to time as in this Act they are impowered and required to perform.

For repair of
the Fort.

XVI. *Whereas*, in an Act intituled a Continueing and Reviveing Act, ratified the sixteenth day of November, one thousand seven hundred, it is therein provided that Landgrave Bellinger, Captain Thomas Smith,

Mr. John Croskeys, and Mr. James Risby, be Commissioners to repair the Fort and a Platt-forme thereon to raise, with other powers to them therein granted; *Be it enacted*, for the better and more speedy carrying on the said work, that Landgrave Edmund Bellinger, Capt. Tho. Smith, Mr. John Croskeys, Mr. Thomas Pinkney, Mr. Isaac Mazicq, or any three of them, be Commissioners to carry on the said work, any thing in the said Act to the contrary contained notwithstanding. A. D. 1702.

XVII. *And be it further enacted*, by the authority aforesaid, That all and every the former Acts of Pilotage, and every thing in them contained relating to the Pilots, are hereby repealed, annulled, revoked and declared void, any thing in the said Act or Acts contained to the contrary notwithstanding. Former Acts repealed.

XVIII. *And be it further enacted*, That this Act and every thing therein contained, do continue in force two years, and no longer. Limitation.

*Read three times and ratified in open Assembly,
the tenth day of September, 1702.*

JAMES MOORE,
JOSEPH MORTON,
ROBERT DANIELL,
EDM. BELLINGER,
ROBERT GIBBES,
HENRY NOBLE,
GEO. DEARSLEY,
ALEXANDER PARRIS.

NOTE.—See Act of April 9, 1706, continuing this Act for six months. Expired.

A Declaratory ACT FOR THE AVOIDING DISPUTES ABOUT THE POWER OF THE GOVERNMENT, WHILST THE PRESENT GOVERNOR IS HEADING OUR FORCES AGAINST ST. AUGUSTIN. No. 201.

WHEREAS the Honourable the Governor, at the desire of us the Commons in Parliament assembled, hath undertaken to head and conduct our forces raised and to be raised to go against St. Augustin, and whereas some disputes may arise about the Government during his absence; To prevent which,

I. *Be it enacted and declared* by his Excellency John Granvill, Pallatine, and the rest of the true and absolute Lords and Proprietors of the Province of Carolina, by and with the advice and consent of the rest of the Members of the General Assembly, now met at Charlestown for the south-west part of this Province, *And it is hereby enacted and declared* by the authority of the same, That since St. Augustin is scituate within the bounds and limits of this Government of South Carolina, the Governor is not nor shall be deemed to be out of his Government durement the said Expedition, whether he personally go by land or sea. The Governor is not to be considered out of his Government by going to St. Augustin.

II. But that on all necessary occasions durement the Governor's absence, such power may not be wanting as shall be necessary for preserving the peace and safety of this Collony, *Be it enacted* by the authority aforesaid, That the major part of the Council shall have power, and the major part thereof is hereby empowered, to do and execute such powers as shall be necessary for the same, during the Governor's absence about the aforesaid place. The major part of the Council may act in his place.

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Council may
adjourn the
General
Quarter
Sessions.

Expedition, as if the Governor were in Council present. *Provided*, that no publick officers shall by them be displaced, during the Governor's absence as aforesaid.

III. *And be it further enacted*, That the Council shall and may adjourn the General Sessions of the Peace and Goal Delivery, to be holden on the third Wednesday in October next, (according to the directions of an Act of Assembly, entituled an Act to prevent Prisoners from makeing Escapes, and to appoint Sessions and Goal Delivery twice every year,) till such further time as they shall think fit; any thing in the said Act to the contrary contained notwithstanding.

*Read three times, and rutified in open Assembly,
this tenth day of September, 1702.*

JAMES MOORE,
EDM. BELLINGER,
JOSEPH MORTON,
GEO. DEARSLEY,
ROBERT GIBBES,
ALEXANDER PARRIS,
ROBERT DANIELL,
HENRY NOBLE.

Obsolete and expired.

No. 202. **AN ACT FOR THE MORE EFFECTUAL SUPPRESSING OF BLASPHEMY
AND PROPHANESS.**

Preamble.

WHEREAS some persons have of late years openly avowed and published many blasphemous and impious opinions, contrary to the doctrines and principles of the Christian religion, greatly tending to the dishonor of Almighty God, and may prove destructive to the peace and welfare of this Province: Wherefore, for the more effectual suppressing of the said detestable crimes,

Persons
denying the
Divinity, &c.

I. *Be it enacted* by his Excellency John Granville, Esq. Palatine, and the rest of the true and absolute Lords and Proprietors of the Province of Carolina, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south and west part of this Province, *And it is hereby enacted* by the authority of the same, That if any person or persons, having been educated in, or at any time having made profession of the Christian religion within this Province, shall, by writing, printing, teaching, or advised speaking, deny any one of the persons of the Holy Trinity to be God, or shall assert or maintain there are more Gods than one, or shall deny the Christian religion to be true, or the Holy Scriptures of the Old and New Testament to be of divine authority, and shall, upon indictment or information in any of the Courts of Record within this part of the Province, be thereof lawfully convicted, by the oath of two or more credible witnesses, such person or persons for the first offence, shall be adjudged incapable and disabled in law, to all intents and purposes whatsoever, to have or enjoy any office or offices, be member of the Assembly, or have or enjoy any employment or employments, ecclesiastical, civil or military, or any part in them, or any profit or advantage appertaining to them, or any of them; and if any person or persons so convicted as aforesaid, shall at the time of his or their conviction, enjoy or possess any office, place of trust, or employment, such

Their penalty
for the first
offence.

office, place of trust or employment shall be void, and is hereby declared void: And if such person or persons shall be a second time lawfully convicted as aforesaid, of all or any of the aforesaid crimes, that then he or they shall from thenceforth be disabled to sue, prosecute, plead or use any action or information in any court of law or equity, or to be guardian of any child, or executor or administrator of any person, or capable of any legacy or deed of gift, or bear any office, civil or military, or benefice ecclesiastical, or be capable of being member of Assembly, for ever within this part of the Province; and shall also suffer imprisonment for the space of three years, without bail or mainprize, from the time of such conviction.

A.D. 1703.

II. *Provided* always, *And be it enacted* by the authority aforesaid, That no person shall be prosecuted by virtue of this Act for any words spoken, unless the information of such words shall be given upon oath before one or more Justice or Justices of the Peace within four days after such words spoken, and the prosecution of such offence be within three months after such information: *Provided* also, *And be it enacted* by the authority aforesaid, That any person or persons convicted of all or any of the aforesaid crime or crimes in manner aforesaid, shall for the first offence, upon his, her or their acknowledgement and renunciation of such offence or erroneous opinions, in the same court where such person or persons was or were convicted as aforesaid, within the space of four months after his, her or their convictions, be discharged from all penalties and disabilities incurred by such convictions, any thing in this Act contained to the contrary thereof in any wise notwithstanding.

No prosecution unless information be given within four days after words spoken.

For the first offence, after renunciation the person to be discharged.

*Read three times, and ratified in open Assembly,
May 6th, 1703.*

N. JOHNSON,
THO. BROUGHTON,
JAMES MOORE,
EDM. BELLINGER,
ROBERT GIBBES,
HENRY NOBLE.

His Excellency JOHN Lord GRANVILLE, Palatine, the Right Honourable WILLIAM Lord CRAVEN, JOHN Lord CARTERET, the Honourable MAURICE ASHLEY, Esq. Sir JOHN COLLETON, Baronet, and the rest of the true and absolute Lords and Proprietors of Carolina,

To all whom it may Concern, send Greeting.

WHEREAS the following Act, entitled, *An Act for the more effectual Suppressing of Blasphemy and Prophaness*, was read three times, and ratified and past in the open Assembly of Carolina, the sixth day of May, one thousand seven hundred and three, and signed and sealed by Sir Nathaniel Johnson, Knight, Governour, Thomas Broughton, James Moore, Robert Gibbes, Edmund Bellinger, and Henry Noble, as our Deputies, viz.

Whereas some persons have of late years, &c.

We the said Palatine and Lords Proprietors do hereby approve of, con-

A. D. 1703. firm, finally enact and ratify the said Act. Given under our hands and the Great Seal of our Province of Carolina, this nineteenth day of October, 1704.

{ *Magnum* }
{ *Sigillum* }

GRANVILLE, PALATINE,
GRANVILLE FOR
LORD CARTARET,
CRAVEN,
M. ASHLEY,
J. COLLETON,

By my Lord Palatine and Lords Proprietors Command,
JAMES GRIFFITHS.

See 9 and 10 Wm. 3, ch. 32. This Act is virtually repealed by the Constitution.

No. 203.

AN ACT FOR REGULATING TAVERNS AND PUNCH HOUSES.

Preamble

WHEREAS the unlimited number of taverns, tap-houses and punch houses, and the want of sobriety, honesty and discretion in the owners and masters thereof, have and will encourage all such vices as usually are the productions of drunkenness and idleness; For the prevention whereof,

License for
retailing.

I. *Be it enacted* by his Excellency John Granville, Esq. Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, *And it is enacted* by the authority of the same, That no person shall sell any wine, syder, beer, brandy, rum punch or any strong drink whatsoever, under the quantity of one gallon at one draught, untill he, she or they have first obteyned a licence from the Right Honourable Sir Nathaniel Johnson, Knight, Governor and Captain Generall, for the selling such the aforesaid liquors under the quantity aforesaid, shall forfeit every time he, she or they shall sell any quantity less than one gallon, fourty shillings currant money of this Province, to be recovered by warrant and prosecution before any one or more Justices of the Peace, in like manner as in the Act for Tryall of Small and Mean Causes is provided, one half to the Governor, the other half to him that shall prosecute and sue for the same.

Jurisdiction
given.

II. *And be it further enacted*, for the better prevention, suppression and punishment of such vices as are commonly practised in such publick houses, that the Honorable the Governor, any one of the Lords Proprietors Deputies, or any two Justices of the Peace, shall have power and are hereby impowered to put in execution all laws, both statute and common, of the Kingdom of England, which have been provided and used and are now in force for or concerning the abuses or disorders of taverns, ale-houses and victualling houses, and retailing any sort of strong liquors, whatsoever, and owners and masters thereof, and all persons which contrary to the said laws do haunt and frequent the same, as full and effectually to all intents and purposes as the same ought or could be within the Kingdom of England, by any or every person therein thereunto impowered; and every person which shall offend contrary to the said laws or any of them, are hereby declared to be and are made liable to the same forfeitures and penalties, to be levied and inflicted as by the same is accustomed and appointed in England.

III. *And be it enacted* by the authority aforesaid, That every person which after the ratification hereof shall or doth retail any strong liquors,

shall pay to the Right Honourable Sir Nathaniel Johnson, Knight, Governor and Captain General, for each licence for selling the same, for the time and term of one year after the date of the said licence, the sum of five pounds currant money of this Province for retailing of wine and all sorts of strong liquors, and three pounds currant money for retailing of any or all sorts of strong liquors wine excepted.

A. D. 1703.

Price of license.

IV. *And be it further enacted* by the authority aforesaid, That every Bond to be person shall at the time he receives his licence, or before, give bond with such penalties and in such manner and form as in the like cases are usual in the Kingdom of England.

V. *Provided* always, *And it is hereby enacted*, That no person shall pay Licence for the aforesaid sum of money for a license within one whole year after the first payment aforesaid; and all persons which have taken license from the Honourable Colonell James Moore, late Governor, shall not be obliged to pay for a licence before the expiration of the time for which they have respectively paid; any thing in this Act contained to the contrary notwithstanding.

VI. *Provided* nevertheless, *And it is hereby enacted*, That any Planter may sell liquors to his neighbours, to be drunk and expended in the buyer's respective plantations, without a licence for the same. And every planter or person not inhabiting in Charlestown, which shall sell liquors to any person and suffer the same to be expended in his own house or plantation, without a licence, for so doing shall forfeit as in the like case is before appointed.

VII. *And whereas* severall persons of late have used in boats and canoes to carry liquors from plantation to plantation, to retail and sell the same, which is observed to be very mischievous and to impoverish the otherwise sober planters, *It is hereby enacted*, that every person which hereafter shall carry any liquors from house to house, either by land or water, and sell and retail the same, shall for each time he, she or they shall be convicted thereof, forfeit the sum of forty shillings, to be recovered in such manner and form and for such uses as other forfeitures in this Act is ordained and appointed.

VIII. *And be it further enacted* by the authority aforesaid, That this Act and every thing therein contained do continue in full force for and during the time the Right Honourable Sir Nathaniel Johnson is Governor, and no longer.

*Read three times and ratified in open Assembly,
the 6th day of May, 1703.*

N. JOHNSON,
THO. BROUGHTON,
JAMES MOORE,
ROBERT GIBBES,
EDM. BELLINGER,
HENRY NOBLE.

A. D. 1703.

No. 204. *AN ACT* FOR THE LAYING AN IMPOSITION ON FURS, SKINNS, LIQUORS AND OTHER GOODS AND MERCHANDIZE IMPORTED INTO AND EXPORTED OUT OF THIS PART OF THIS PROVINCE, FOR THE RAISING OF A FUND OF MONEY TOWARDS DEFRAYING THE PUBLICK CHARGES AND EXPENSES OF THIS PROVINCE, AND PAYING THE DEBTS DUE FOR THE EXPEDITION AGAINST ST. AUGUSTINE.

Enumeration
of articles to
be taxed.

FOR the more speedy and effectual doing of the same, *Be it enacted* by his Excellency John Granville, Esq., Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice of the Members of the General Assembly now met at Charlestowne for the south-west part of this Province, *And it is enacted* by the authority of the same, that from and after the day of the ratification of this Act, that all and every the rates and duties hereinafter named, shall be ***** imposed, and be paid and answered at and upon the importation and exportation of the severall furs, skinns, liquors and other the goods and merchandize hereinafter specified and enumerated, that is to say, upon all wines in bottles, commonly called quart bottles, three pence ***** and so in proportion for a greater or lesser bottle; and ***** pence per gallon for all such wines imported in casks; three pence for each and every gallon of rum; three pence for every bottle, commonly called quart bottle of syder. For every cask of syder imported from any part or place whatsoever, three shillings and six pence per barrell, the barrell containing thirty-two gallons, and so in proportion for a greater or lesser cask; upon all bear, stout, ale, mummm, or other malt drink, two pence per quart bottle, and upon all bear, stout, or ale in cask, three shillings and six pence per barrell, and so in proportion for any greater or lesser cask; upon mummm in casks, eight pence per gallon; upon all molasses imported, one penny per gallon; upon all sugar imported, one shilling per hundred lb. weight; for every hundred weight of flower imported, two shillings and six pence; for every hundred weight of white biskett bread, two shillings and six pence; and for every hundred weight of brown biskett bread, fifteen pence; on every hundred weight of tobacco imported, twelve shillings and six pence; on every hundred weight of salt fish, three shillings; on every barrell of mackrill or herring, six shillings; on every hundred weight of cocoa nutts, two shillings and six pence; on logwood imported, ten shillings per tun; on Brazilletta-wood, five shillings per tun; and on all other dyeing woods ten shillings per tun; on every quart bottle of brandy or English spiritts, *rosa solis* and all other spiritts (rum excepted) four pence per bottle; and if any of the said brandy or spiritts be imported in cask, then and in such case fifteen pence per gallon is hereby laid and imposed on the same; and upon all Madeira wine of the growth of the Island of Madeira, three pounds per pipe; upon Fiall wine or any wine of the growth of the Western Islands, five pounds per pipe, and so proportionably for a greater or lesser quantity of any of the wines aforesaid.— And every master or commander of any vessell, merchants or others importing any of the said wines, shall before he landeth any of the said wines, take the oath following, viz: I, A. B. do swear that the wines which I now import, are to the best of my knowledge and information, of the growth of the Island of — and that they were taken by me on board — att — so help me God. And all persons importing any wines, who shall refuse to take the said oath, the wine by him or them imported shall be deemed and pay as Fiall or Western Islands wine.

Form of oath
to be taken.

II. *And be it further enacted* by the authority aforesaid, that a duty of three pence for each and every dear skin exported out of this part of this Province, whether the same be in the hair or dressed, or undressed in part or in all, shall and is hereby laid and imposed; and all beaver, three pence per pound; cats and fox skins shall pay and answer one penny per skin, and racoone one half penny per skin. A. D. 1708.
Duty on Skins.

III. *And it is further enacted* by the authority aforesaid, that a duty of three pounds for every hundred pounds, be and is hereby laid to be paid by the importer on all goods and merchandize of any sort or quality soever, not in this Act particularly specified and rated, which at any time or times hereafter shall be imported into this part of this Province, (salt only excepted)—the said duties of three per cent. to be vallued and rated on the prime costs from the place where such goods were last bought, on the invoice produced by the importer to the receiver, or such other officer as shall be thereunto appointed or authorized; and the said importer shall take his corporal oath before the said receiver, that the invoice which he produces is not less than the true and real cost of the said goods at the last place of exportation. On goods and
merchandize
generally.

IV. *And it is further enacted* by the authority aforesaid, that a duty of twenty shillings a head be laid and imposed, and is hereby laid and imposed on every negro slave (children under eight years old excepted) imported from the West Indies, or any other part or place, (Africa excepted) and sold in this province; and ten shillings per head on all negro slaves (children under eight years old excepted) imported into this Province from Africa in the same vessell in which they were shipped and brought to and sold in this Province. On negro
slaves.

V. *And whereas*, differences may arise concerning the age of negro children imported, for the prevention thereof, *Be it enacted*, that any one Justice of the Peace is hereby impowered to judge of such difference; and the age of such negro children by him certified to the controller, shall be deemed the age of the said negro child; and the importer shall pay the duty accordingly; and on every Indian slave exported out of this part of this Province, twenty shillings per head; and on every hundred foot of cedar timber exported out of this part of this Province, which is above six inches square, twenty shillings per hundred foot; except such cedar only as shall be made use of in the reparation of any vessel within this harbour, before the vessell depart the same.

VI. *And be it further enacted*, that every master of any ship or vessell, merchants or others, importing any of the aforesaid goods, on which an imposition is laid, shall before he or they break bulk, make a general entry of his loading, which signed by him, he shall deliver to the controller, containing the marks, numbers and contents of all such goods imported, and from whence they came, with the name of the vessell and master importing the same; and every merchant or others importing any of the aforesaid goods, shall before the landing of the same two entrys by him signed make, containing the marks, numbers and contents, with the name of the master and vessel importing the same, to the controller deliver, one of which said entrys shall by the controller be filed, and entered in a book by him kept for that purpose, and the other signed by the said controller shall by the importer be delivered to the receiver to sign the same as a permit for landing the said goods. Duty of
masters of
vessels.

VII. *And for the better collecting the duty of goods exported*, *Be it also enacted* by the authority aforesaid, that every person whatsoever intending to ship any of the skins, furs, cedar or Indian slaves, herein before rated, shall before the shipping of the same, two entrys by him signed make, Oath to be
taken by
shippers.

A. D. 1703.



containing the marks, numbers and contents, with the name of the master and vessel, with the place they are bound to, to the controller deliver, on his or their corporal oath, who is hereby impowered to give the same, that the said inventory is an exact account of all such goods intended to be shipped as aforesaid; one of which said entrys shall be filed by the controller, and in such further manner and forme as with goods imported, shall be by the receiver and controller be kept and performed; and every master or owner of every vessel on which such goods are exported, shall upon his oath a true and general report of all goods shipped on board his said vessell to the controller returne before he depart this port, or have a permit for the same. And the powder receiver is hereby required and commanded not to grant any permit to any vessel to depart this port, until the controller shall first grant to him a permit for the same.

Controller of entrys.

VIII. *And be it likewise enacted* by the authority aforesaid, that John Buckley, merchant, is hereby nominated and appointed controller of all such entrys to be made as aforesaid; and every master or merchant importing or exporting any of the goods and merchandize aforesaid, shall for every entry so made, pay to the controller the sum of one royall for every entry that shall pay the duty of twenty shillings and under; and for every entry above the sum of twenty shillings, two royalls and no more; which said controller shall be accountable to and displaced by the Commons.

Power of the Receiver.

IX. *And be it further enacted* by the authority aforesaid, that no liquors or goods as aforesaid, imported into the port or harbour of Charlestowne, shall be carried by any ship, boat, canoe or vessell whatsoever, up Cooper or Ashley River, more inland than the north or south end of Charlestowne, before the duties and rates laid on the said liquors or goods be paid, or the importer's bond with security be given, payable within twenty days to the publick receiver for the same. And the said receiver at the expiration of the said twenty days, shall put the said bond or bonds in suit, in case of non-payment, or be liable for the said sum or sums to the publick. And if any master or commander of any ship or vessel, merchant, factor, mariner, or any other person whatsoever, shall before due entry made as aforesaid, put ashore in the port of Charlestowne, or in any other port, river, or creek in this part of this Province, or do put the same into any boat or vessell in order to landing any liquors or goods herein before rated, and contained and mentioned in this Act, the said liquors and goods so put on shoar, or put into any boat or vessell in order for landing the same, shall be forfeited and condemned in manner and forme as is hereinafter provided. And all manner of persons are hereby required to be aiding and assisting to the said receiver, his agents, to the informer, discoverer or seizer, in the actual seizing all liquors and goods unladen or landed contrary to the true intent and meaning of this act, under the penalty of five pounds, to be levied, recovered and disposed of to such uses as other forfeitures accruing by this Act are appointed and ordered.

In case of disputes.

X. And for the prevention of disputes that may arise between the importer of liquors and the receiver, it is hereby declared that the importer shall, without gageing, be allowed ten per cent. for leakage upon his invoice and entry made as aforesaid. But if the owner or importer shall suspect his leakage to be more than the ten per cent., then the receiver shall see or appoint the same to be surveyed and filled up, and such leakage if entered with the controller, not otherwise, shall be allowed accordingly.

XI. *And be it further enacted* by the authority aforesaid, that if any Indian slave, skins, furs or cedar, whatsoever, herein before rated, shall be put

on board any ship or vessell either directly or indirectly, before due entry made as aforesaid, all and every of the said furs, skins, Indian slaves or cedar so put on board as aforesaid, are hereby forfeited, and to be recovered and disposed of to such uses as other forfeitures accruing by this Act are appointed and ordered; except only such cedar as shall be on board for the use and reparation of the ship or vessell within this harbour, before she departs the same.

A. D. 1703.

Forfeiture on shipping before the duty paid.

XII. *And be it further enacted* by the authority aforesaid, that it shall and may be lawfull for the receiver, his agents, the controller or the informer, by virtue of a warrant from any Justice of the Peace to that purpose first obtained, with one constable or more, to search all manner of houses, cellars, ware houses and shops, and the same may breake open in the day time, if the owners refuse to suffer them to enter, for all such liquors and goods as they or any of them shall be informed were carried there to be concealed contrary to the true intent and meaning of this Act; and such liquors and goods so found, shall be forfeited and condemned in manner and forme hereafter mentioned, provided that the same are seized in three months after the offence committed.

Power of the Controller or Informer.

XIII. *And be it enacted* by the authority aforesaid, that the Receiver aforesaid or his deputy be enabled and authorized, and they are hereby enabled and authorized, to goe and enter on board any vessell or vessells in the day time, and make searches in all places and parts therein, and if need be, to break open any locks or chests, casks, bail or other thing whatsoever, if denial be made of opening the same, and there seize and from thence bring on shoar all skins, furs, Indian slaves and cedar, whereof due entry hath not been made. And the said Receiver or his deputy are hereby enabled and authorized to do all other lawful matters and things which may tend to secure the true payment of the duties by this Act imposed; and if any person or persons shall forcibly resist, or encourage or assist any person or persons to oppose and hinder the public receiver or his deputy in the due execution of this Act, then and in such case, every such person, for every such offence, shall forfeit and pay the sum of one hundred pounds, to be recovered and disposed of in such manner and form as is hereinafter mentioned.

Receiver may board any vessel.

XIV. *And be it further enacted* by the authority aforesaid, that for all and every the liquors and goods before enumerated, imported into this Province; and for all skins, furs, slaves and cedar exported out of the same in any vessell built and wholly belonging to owners inhabiting in this part of the Province, the owners, importer or exporter thereof shall pay no more than half the duties imposed upon the severall goods and merchandize imported or exported as aforesaid; and all goods as aforesaid, exported or imported in any vessel wholly belonging to owners inhabiting in this part of this Province and not built here, the owners, importers or exporters thereof shall pay no more than two thirds the duties imposed upon the severall goods and merchandize aforesaid, imported or exported.

Domestic owners to pay half duties.

XV. *And be it further enacted and declared* by the authority aforesaid, that if any of the aforesaid liquors or goods (negroes excepted) be landed, and afterwards exported, within two months after the importation thereof, and not otherwise, the receiver for the time being shall discount or re-pay unto the owners or assignes halfe the customes of the said liquors and goods, according to the rates before mentioned, he or they so exporting, having first made oath before the receiver, who is hereby impowered to give the same, that the said liquors and goods were imported within the time limited, and paid the duties aforesaid, with the name of the ship or vessel and master in which they were imported; that the receiver shall

Discount and drawback allowed.

A. D. 1703.

then grant a permit to transport the same, the exporter first entering with the controller the quantity of the said goods and merchandize to be exported, and allowing to the receiver out of the said duty, his commission of ten per cent., and no more.

Public
Receiver
appointed.

XVI. *And it is likewise enacted* by the authority aforesaid, that George Logan, merchant, is hereby nominated and appointed publick receiver of all dues, penalties and forfeitures arising or growing due or payable to the publick by this Act, and an account thereof shall fairly keep and render from time to time as often as he shall be thereunto required by the Commons; and he shall have, and he is hereby impowered to constitute a deputy under him, and shall be allowed ten per cent. for all moneys he shall receive and pay by virtue of this Act, and shall cease to be such by an order of the Commons. And if the said receiver for the time being shall depart this life, or goe out of this Government, or cease to be such as aforesaid, the House of Commons shall nominate and appoint another in his room so deceased, gone off, or ceased to be such; and him so nominated, shall to all intents and purposes be deemed receiver, and shall have the same power and profits, and under the same directions, penalties, fines and forfeitures as he that is nominated in this Act.

Receiver
dying.

XVII. *And it is further provided*, If the said receiver for the time being shall dye or depart this Province, the Assembly not sitting, the Governor for the time being, by a warrant under his hand and seale, shall impower and appoint a receiver, and him so impowered and appointed, shall continue six months, or to the next meeting of the Assembly; and he so impowered and appointed, shall have the same power and profits, and under the same directions and penalties, fines and forfeitures as he that is nominated in this Act.

Receiver to
take an oath.

XVIII. *And be it also enacted* by the authority aforesaid, that the said receiver and his deputy, before he or they shall execute any part of his or their office, shall and do first take his and their oaths before any Justice of the Peace, to execute their places duly and honestly, and he or they that shall neglect to take such oath, shall forfeit the sum of fifty pounds; and the said receiver, for the better security of the publick revenue, shall with two good and sufficient securities, within twenty days after the ratification hereof, enter into bond unto Colonel James Moore, Job Hows and Ralph Izard, Esqs., or any two of them, for the sole use of the publick, in the sume or penalty of three thousand pounds, which bond shall be under the condition hereafter expressed, (that is to say,)

Bond.

The condition of this obligation is such, that if the above bounden A. B., his executors or administrators, shall well and truly account for (as often as he shall be required by the Commons assembled, or a committee of the Assembly by them appointed) all and every such sume or sumes of money which by virtue of this Act of Assembly shall come to his hands, or any other Act or Acts whatsoever, and shall also pay all sums of money, according to the intent and meaning, and to the uses mentioned and directed in this or any other Act, then this obligation to be void, otherwise to be and remain in full force and virtue.

Appropriation
of duties.

XIX. *And be it further enacted* by the authority aforesaid, that two-third parts of all and every the sume and sumes of money that shall become due, and arising by virtue of this Act, shall be appropriated, ordered and disposed of for and towards the payment of such debts as are due and owing by the inhabitants of this Province for disbursements and charges in the late expedition against St. Augustine, and as is directed by an Act entituled an Act for the Raising of the Sume of Four Thousand Pounds, &c., and not otherwise.

XX. *And be it further enacted*, that the said Colonel James Moore, Job Hows and Ralph Izard, Esqs., or any two of them, have power, and they are hereby empowered in the name of the Pallatine, and the rest of the true and absolute Lords and Proprietors of this Province, but for the sole use, benefit and behoofe of the publick, to sue the aforesaid obligation, if the same at any time shall become forfeited, and not otherwise; and that if at any time in the life-time of the said receiver, and during his being receiver as aforesaid, the aforesaid obligation shall become forfeited and sued by the aforesaid Colonel James Moore, Job Hows and Ralph Izard, Esqs., or any two of them, and Judgment thereupon obtained, then and in such case the said receiver shall give a new obligation of the same tenor, to the said Colonel James Moore, Job Hows and Ralph Izard, Esqs., or any two of them; and as often as any obligation by him the said receiver given as aforesaid, shall be sued and judgment thereon obtained, which the said commissioners aforesaid are empowered to sue as aforesaid. And if the said receiver shall refuse to give any such new obligation as aforesaid, he shall cease to be receiver, as if dead or absent, and another receiver appointed in his stead by the Governor, as in case of his death or absence, and all former obligations by the said receiver given as aforesaid, shall be null and void from and after his the said receiver's giving of a new obligation as aforesaid.

A. D. 1703.

Bond may be sued, and by whom.

XXI. *And be it further enacted* by the authority aforesaid, that all the severall and respective fines and forfeitures under forty shillings, which shall accrue or become due by virtue of this Act, shall be recovered as in the Act of Small and Mean Causes is provided; and all the severall fines and forfeitures above forty shillings, shall and may be sued by any action of debt, bill, plaint or information in any Court within this part of the Province, wherein no essoign, priviledge, delay or protection of law shall be allowed or admitted; and the severall and respective forfeitures that shall be recovered by virtue of this Act, shall be and remaine one moiety or half part thereof for the publick use of this Province, to be paid into the hands of the receiver, and the other moiety or half part thereof to such person or persons who shall or will informe against the offender or offenders of this present Act, and shall and will sue for the said forfeitures upon the same. And if any of the liquors, furs, skins, goods or merchandize aforesaid, be seized for an offence committed against this Act, if the property be claimed by any person or persons as the importer or exporter thereof, in such case the *onus probandi* shall lye upon the owner or claimer thereof, and shall not be incumbent on any prosecutor or informer; and the said owner or claimer thereof shall pay the costs of suite of such action, bill, plaint or information, if judgment be given against him on the same.

Forfeitures how to be recovered.

XXII. *And be it further enacted* by the authority aforesaid, that an Act entituled an Act to lay an Imposition on Liquors and Goods Imported into this part of this Province, for the Defence and Support of this Government, ratified in open Assembly, the sixteenth day of November, one thousand seven hundred, is hereby repealed, except the bonds given by Landgrave Thomas Smith, receiver, which is hereby declared firm and valid in law until the said Smith's accounts shall be settled and discharged by the Commons, any thing in this clause contained to the contrary notwithstanding.

XXIII. *And be it further enacted*, that an additional Act to an Act for laying an Imposition on Liquors, &c., ratified in open Assembly, the first day of March, one thousand seven hundred; and that an Act for laying an Imposition upon Skins and Furs for the Defence and Publick

No. 175.

Repealed.

No. 129.

A. D. 1703.

No. 195.

Use of this Country, ratified in open Assembly, the sixteenth day of March, one thousand six hundred ninety-five, and since continued by an Act entituled a Continuing, Reviveing and Repealing Act, ratified in open Assembly, the tenth day of September, one thousand seven hundred and two, are hereby declared repealed, annulled and revoked, any limitation in the said Act or Acts contained to the contrary notwithstanding.

XXIV. *And be it further enacted* by the authority aforesaid, that this Act and every thing therein contained do continue in force for and during the full term and time of two years, from and after the ratification hereof, and from thence to the end of the next sessions of the Generall Assembly after, and no longer.

*Read three times, and ratified in open Assembly,
the sixth day of May, 1703.*

N. JOHNSON,
THOMAS BROUGHTON,
JAMES MOORE,
ROBERT GIBBES,
EDM. BELLINGER,
HENRY NOBLE.

NOTE.—See No. 205, 215, 226, 254, 257, (being numbered in Trott, 206, 217, 230, 258, 261.) The duty on Skins and Furrs in the 2nd section of the present Act is made perpetual by section 3 of Act of Nov. 4, 1704, relating to a duty on Skins and Furrs. See also sect. 34 of Act of June 30, 1716, laying an imposition on Liquors, &c., and sect. 31 of Act of March 20, 1718-9, for laying an imposition, &c.

AN ACT FOR RAISING THE SUM OF FOUR THOUSAND POUNDS ON THE
No. 205. REALL AND PERSONALL ESTATES, AND OF AND FROM THE PROFITTS
AND REVENUES OF THE INHABITANTS OF THIS PROVINCE, AND ESTAB-
LISHING OF BILLS OF CREDIT FOR SATISFYING THE DEBTS DUE BY
THE PUBLICK ON ACCOUNT OF THE LATE EXPEDITION AGAINST ST.
AUGUSTIN.

Preamble. WE the representatives of the people of this Province, being highly
sensible how much it concerns us for the support of this Collony to keep
the publick faith and credit, and knowing it to be our duty for the hon-
our and justice of this Collony, to satisfy the debts now due for the late
expedition against St. Augustin, do give and grant unto His Excellency
John Granville, Esq. Palatine, and the rest of the true and absolute Lords
and Proprietors of the Province of Carolina, the sums hereafter mentioned
and for the uses herein after mentioned, and for the better effecting there-
of we pray that it may be enacted,

And be it enacted, by his Excellency John Granville, Esq. Palatine, and
the rest of the true and absolute Lords and Proprietors of the Province
of Carolina, by and with the advice and consent of the rest of the
members of the General Assembly, now met at Charlestown for the
South-west part of this Province, *And it is enacted* by the authority of
the same, That the sum of Four Thousand Pounds shall be equally and
indifferently imposed and levied upon the estates, stockes and abillities of
all and singular the inhabitants, merchants and other persons resideing and
liveing within that part of the Province of Carolina which lyes south and

£2000 on first
of next Feb.,
and £2000 on
the 1st Feb.
1704.

west of Cape Fear, at such times and after such manner and forme and by such persons as is herein after mentioned and directed : That is to say, two thousand pounds on or before the first day of February next, and two thousand pounds on the first day of February which shall be in the year of our Lord one thousand seven hundred and four.*

A. D. 1703.

II. *And be it further enacted*, That Edward Loughton, William Weekly, Dove Williamson, William Gibbons, Elias Foissin, for Charlestown; and for the Neck, from the town to Mr. Thomas Butler's inclusive, John Bird, William Elliott; from thence to Col. Broughton's and to Mr. Izard's plantation upon Wassam Saw Swamp inclusive, Daniell Axtell, William Baker; from Col. Gibbs inclusive to the head of Ashley River and the north side of Stono River, Shem Butler, William Fuller, Col. Stephen Bull; for James Island, Jonathan Drake, John Croskeys; for the South-east side of Wando River, John Fenwick, Henry Gill, William Capers; for the North-west side of Wando River, Abraham Warnock, Robert Daniell, jr. Esq. Capt. Johnson Lynch; for the Company belonging to Capt. Lynch, Elias Ball, Christopher Beach, Humphrey Torquet; for the Company belonging to Capt. Guppell and Capt. Sckinghings, Cowpen, Thomas Hubbard, Capt. Samuel Dubourdieu, Dr. Anthony Corde; for the Company belonging to Capt. Benjamin Sckinghings, with Mr. Berrenge's, Major Smith and Col. Moores, and Joseph Brina and Congree Settlements, John Sanders, Robert Mackewne, Hugh Grange; for Craven County, John Gaillard, Peter Robert, jr.; for Stono River, Thomas Elliott, John Wilkins; for Keywa and Bowhickett, Edmund Jarvis; for Wadmelow, James Williams, Esq.; for the Company belonging to Capt. Wilkinson, William Ozwell, John Jackson; for Edisto Island, John Whitmarsh, Henry Bower; for the Company belonging to Capt. Nearne, William Maggot, Edmund Dundon,—shall be are hereby nominated and appointed Commissioners to enquire and make an account of the estates, goods, merchandizes, stockes, abilities, offices and places of profits, of what kind or nature soever, which their and every of their neighbours have and enjoy, in manner and form following; that is to say, of the number of neat cattle, horses, sheeps, swine; white servants with their trades and time they have to serve; slaves, their sexes, ages, trades and capacities; the quantity of lands, the place the same lyes in, and the buildinges and improvements thereon and belonging to the same each person respectively hath and enjoyeth; which enquiry and account made and taken as aforesaid, the Commissioners shall in writeing, under their hands and on their oathes, on the first Wednesday in November next, return and give in Charlestown, at the house of Capt. John Collins, Marshall, to John Ashby, James Witter, James Ingerson, Peter St. Julien, Lewis Pasquereau, Robert Fenwick, Capt. Thomas Nairne, Capt. Christopher Wilkinson, Rene Ravenell, Assessors; the forme of which oath shall be in the words following, viz. I, A. B. do sincerely swear that the account of estate, stockes and abilities of the severall persons whose names are comprized in the account I now give and return to you, is a full and just account, according to the best of my knowledge and information, as by this Act is required; so help me God. And the said Assessors, or any five of them, are hereby impowered to administer the said oath unto the said Commissioners.

Commissioners
named and
appointed.

Oath to be
taken.

III. *And be it further enacted*, That the said John Ashby, James Witter, James Ingerson, Peter St. Julien, Lewis Pasquereau, Robert

Assessors
appointed.

* Is there not a mistake in the date here? This Act was ratified May, 1703.

A. D. 1703.

Fenwick, Capt. Thomas Nairne, Capt. Christopher Wilkinson, Rene Ravenell, shall be and are hereby nominated and appointed Assessors, for the rateing, taxing and assessing of the Four Thousand Pounds aforesaid, on the estates, stockes and abilities of all the inhabitants aforesaid; who shall meet at Charlestown, at the house of John Collins aforesaid, on the first Wednesday in November aforesaid, and sitt de die in diem, till they have indifferently and equally rated and assessed the said four thousand pounds on the inhabitants aforesaid; and the said assessment, so made fairly under their hands and seales, they shall indent, expressing the names of all and every person so assessed, with the summs of money each person is assessed att, with the value of his or their estates, and how much he or she is rated at per pound, before the respective name of each person; and the said indenture, so signed and sealed by them or any five of them, shall immediately deliver one of them to the Clerk of the House of Commons, there to remain as a record, and the other unto the Publick Receiver. And the Assessors aforesaid shall on the day aforesaid, before they begin to make the assessment aforesaid, before any one Member of the Council or before any two Justices of the Peace, take the following oath: I, A. B. do swear that according to the best of my judgment I will indifferently, equally and impartially rate and assess all and every person to me returned to be assessed by the Commissioners for that end appointed, according to their severall estates, stockes and abilities to me given and returned; so help me God, &c.

Oath.

Assessment
how to be
notified.

IV. *And be it further enacted* by the authority aforesaid, That the Publick Receiver shall by himself, his deputy or deputies, some time before the tenth day of January next, send to every Captain a list of all and every the persons living within the said Captain's respective company, mentioning the sum of money they are rated and assessed, and at how much per pound he or she is assessed att, with the time and place appointed for the payment of each moyety or half part; and every Captain in his respective company is hereby required, by himself or his officers, on receipt thereof, to read the said list of assessment at the head of his company, or send to every person in writeing an account of what he is assessed at, and the time and place of payment thereof, fifteen days before the first payment is due.

Assessment
how to be paid.

V. *And be it further enacted*, That every person assessed and rated as aforesaid shall pay one moiety of what he was rated at to the Publick Receiver in Charlestown, on or before the first day of February next, and the other moiety on or before the first day of February in the year one thousand seven hundred and four, in Charlestown, as aforesaid; and in case any person shall neglect or refuse to pay his or her moiety of money at or within the respective times before limited and appointed, the Publick Receiver is hereby required, within ten days after each day of payment respectively, to return the names of every person neglecting as aforesaid to the next Justice of Peace, together with the account of the sum of money each person at that respective day was to pay, which Justice to whom return was made shall within three days after such return, by a warrant under his hand and seale, directed to the next Constable, cause distress to be made on the goods and chattels of the persons against whom return as aforesaid was made, for value of that moiety he was at that day to have paid, together with the charges of distraining, keeping, appraising and selling; and in case the Constable shall make return that he can find noe goods or chattels to distraine as aforesaid, in that case the Justice shall under his hand and seale give his warrant to the said Constable to seize and apprehend the body of the person against whom such

return is made, and to go to carry, who by the goaler shall be there kept without baile till the Publick Receiver shall certifie to him the goaler that the said person hath paid the money he was committed for, and that he may discharge him paying his fees. And every Constable which shall make distress as aforesaid shall keep the goods and chattels distrained three days, unless they shall be sooner redeemed by the owner for the money they were distrained for and charges thereon, and after three days shall cause the same to be appraised by three freeholders of the neighbourhood, and as much thereof to the Publick Receiver shall deliver as is valued at the sum of money he was to make distress for, together with the charges of distraining, appraising, keeping and carrying to the Receiver, and the overplus to the owner to return. And if any person or persons which after he is assessed shall depart out of this Province before the respective days of payment before appointed or either of them, shall before they do go off pay to the Receiver their assessment or give security for the same, or for want thereof shall be prosecuted by the Receiver as persons which neglect to pay at the days of payment, any thing in this Act to the contrary notwithstanding.

A. D. 1703.

VI. *And be it further enacted*, That the Assessors aforesaid shall be rated and assessed by Henry Noble, James Risbee and Alexander Parris, Esquires, Justices of the Peace, or any two of them, on their oath, in such manner and before such persons as the said Assessors are required to rate and assess all others the inhabitants aforesaid, and not otherwise; and the said Justices of the Peace shall meet and sit de die in diem, at the house of the said John Collins, on the same day the Assessors are appointed to sit, untill they have rated and assessed the Assessors aforesaid, and make returne of their having so done to the said Assessors before they have concluded and perfected the assessment.

By whom the Assessors shall be assessed.

VII. *And be it further enacted*, That every person which shall have reason to believe he is over-rated, may within twenty days before each respective day of payment aforesaid, make his appeal to the commissioners hereafter nominated to hear such appeals, which commissioners shall have power and are hereby empowered to examine every person appealing, on their corporall oaths, touching every particular thing and part of their estates, and if they have reason for the same may abate and default such part and proportion of the appellants tax as they shall see cause for, and the commissioners shall certify to the Publick Receiver, some time before each respective days of payment, their doings thereon. And Robert Gibbes, Henry Noble, Alexander Parris, Esqs., Mr. John Buckley and James Serurier als Smith, or any three of them, are hereby nominated commissioners of the appeals to be made as aforesaid, and shall meet and sit at Charlestown, in the house of the aforesaid John Collins, every of the twenty days next before each respective day of payment, if thereunto required.

Appeal given.

VIII. *And whereas* several persons may be willing to pay down such sums of money as they are assessed at, before the respective days of payment, *Be it enacted* and declared, that if any person so assessed is willing to pay his said tax, the Receiver for the time being shall receive the same, and discount out of the same, to such person so paying, interest for the same, at the rate of tenn per cent. per annum for the time that he, she or they shall pay before the time when such payment become due by this Act.

Discount for prompt payment.

IX. *And be it further enacted* by the authority aforesaid, That every Commissioner of Enquiry, every Justice of the Peace, every Constable, every Assessor, the Publick Receiver, and every Commissioner of Appeals,

Penalty on neglect of duty.

A D. 1703.

which shall neglect or refuse to do and perform that charge and trust which is hereby to them given and committed, shall for each neglect forfeit the sum of forty pounds, to be recovered in any Court of Record, by bill, plaint or information, in which no protection shall be allowed of, one half thereof to the Publick Receiver, for the use of the poor, and the other half to him or them that will sue for the same.

Fractions of a penny.

X. *And be it further enacted* by the authority aforesaid, if it so happen that in the assessing the four thousand pounds aforesaid, any fraction less than the one fourth part of a penny shall happen, that the Assessors to avoid trouble may raise and assess such fraction, notwithstanding the same may be more than the said four thousand pounds; any thing in this Act notwithstanding.

Bills of Credit to be issued.

XI. *And whereas* the said tax of four thousand pounds, herein mentioned, is raised to defray and satisfy such persons from whom any goods, provisions, ammunitions or vessells were taken up for the late expedition against St. Augustin, and to satisfy the debts now owing by the publick, which could not be done presently without pressing too hard upon the inhabitants of this Collony, and that it would also be hard upon the persons who have trusted the country to be so long without a due payment of their debts: For remedy thereof, and following the examples of many great and rich countries who have helpt themselves in their exigencies with funds of credit, which have fully answered the ends of money, and given the people besides a quick circulation of their trade and cash, *Be it enacted* by the authority aforesaid, that it shall and may be lawfull to and for the Publick Receiver, together with the assistance of Colonel James Moore, Alexander Parris, Esq., and James Serurier als Smith, Commissioners thereunto appointed, to make or cause to be made a certain number of Bills of Credit, the lowest beginning at fifty shillings and the highest, not above twenty pounds, amounting in all to the sum of Six Thousand Pounds; which said bills shall by the said Receiver be given in payment unto such persons unto whom the country is indebted, viz. to every one so many bills as makes the payment of his debts, the which debts shall be certified to him in a schedule under the hand of the Speaker of the House of Commons and delivered unto the said Receiver for his governance therein.

Penalty on counterfeiting.

XII. *And to prevent* the counterfeiting of the said bills by evil disposed persons, *Be it enacted* by the authority aforesaid, that if any person or persons shall counterfeit any of the said bills, or knowing any bills to be false or counterfeited shall utter the same in payment, then and in such case the counterfeiter or any one aiding or assisting him, as well as the utterer or disposer of the said bills, being thereof duly convicted, shall be punished as guilty of felony, without benefit of clergy.

Bills of Credit to be indented.

XIII. *And the better to prevent* the counterfeiting thereof, *Be it enacted* by the authority aforesaid, that all the said bills shall be indented and the counterpart of the indenture kept fairly bound in a book by the Receiver, and also the bills shall be numbered and the counterpart of the indenture shall have the same number of the bill, that if any person do question or suspect the said bill or bills to be false or counterfeited, they may compare them with the counterpart of the indenture; and the said Receiver is ordered to have the said book alwayes ready to be produced to all persons desiring the same to compare their bills, without any fee for the same; and besides the said indenture and number on the said bill and counterpart, the said bill shall be signed by the Publick Receiver and Col. James Moore, Alexander Parris, Esq. and James Serurier als Smith, and a seal affixed to every bill, and all means used to to make the same secure from

counterfeiting. And the said Col. James Moore, Alexander Parris, Esq. and James Serurier als Smith, are hereby appointed commissioners to see the same done, and the Receiver is hereby ordered to take their approbation of the same before he issueth out any of the said bills.

A. D. 1703.

XIV. *And be it further enacted* by the authority aforesaid, That the Receiver for the time being shall receive and take in payment of any dues, duties or taxes coming to the publick, the said bills, the which when he hath in his possession he shall cancel and put on a file or files, to be presented to the Assembly at the next meeting.

Receivable
for taxes.

XV. And to make the said bills valuable amongst the people, *Be it enacted*, That twelve pounds per cent. interest per annum shall be allowed on the said bills, and so proportionable for greater and lesser summs, and the said interest shall be computed from the day of the date of the bill till the day of its coming into the Receiver's hands to be cancelled; and the Receiver shall allow and receive the said bill, allowing to the party the interest for the time past as well as the principall. *Provided* always, that the said Receiver shall allow no more interest on any of the said bills which shall be so paid to him for any taxes, dues or impositions, than to the day that such tax was due or such duties or impositions were to have been paid; and if the Receiver for the time being, by reason of receiving several small summs under the value of any of the said bills, shall happen to have any money in cash, it is hereby enacted and ordained that he shall then take of any person possessed of any of these bills so many bills as the said money amounts unto, and shall in lieu thereof pay them their money, together with the interest to the day of the reimbursements.

To bear
interest at
12 per cent.

XVI. *And it is likewise enacted* by the authority aforesaid, That all and every the summ or summs of money which are to be raised by virtue of this or any other Acts, are hereby appropriated for the securing the payment of the said bills, except one third part of the income of the impositions imposed and to be raised by an Act entituled an Act for Laying an Imposition on Furs, Skins, Liquors and other Goods and Merchandizes imported into and exported out of this part of this Province, for the raising of a fund of money towards the defraying the publick charges and expences of this Province, and paying the debts due for the late expedition against St. Augustin; which is hereby appropriated and allowed towards defraying such charges as are necessary for the defraying the contingent charges and expenses of the publick, any thing in this Act to the contrary notwithstanding. And if the Receiver for the time being shall pay or cause to be paid any of the said moneys otherwise than to the payment of these bills, or as here is directed and ordained, he shall forfeit triple the value of such money so diverted or misapplied contrary to the intent and meaning of this Act, the one half to such person or persons as will sue for the same, by bill, plaint or information, in any Court of Record within this Province, wherein no essoign, protection or wager of law shall be allowed, the other half to the Publick Receiver, for the use of the publick.

Appropriation
of the tax.

XVII. *And be it further enacted*, That the said bills shall be reckoned and taken from the day of the ratification of this Act to be a good payment and tender in law, and if any person or persons shall refuse to take and receive the same in payment, he or they so refusing shall forfeit double the value of such bills so refused; the said forfeitures to be recovered and disposed of as other fines and forfeitures in this Act appointed, except in payment of all former bonds, bills, specialities and debts whatsoever, contracted or made before the ratification hereof.

To commence
from the day of
ratification.

A. D. 1703.

No. 199.

XVIII. *And whereas* there is some doubt arisen upon the late Act of Assembly intituled an Act for raising the sum of Two Thousand Pounds of and from the real and personal Estates and of and from the Profits and Revenues of the Inhabitants of this Province, for the carrying on this present Expedition against St. Augustin, and for appointing the number of men and shippes to be made use of and the manner and method of going against the said place,—ratified in open Assembly the tenth day of September, 1702; for the clearing thereof, *Be it enacted* by the authority aforesaid, that the severall summ or summs of money yet unpaid on the said Act shall be levied by the Receiver according to the direction and intention of the said Act, notwithstanding any defect or failure in any part of the rules and methods prescribed and ordained by the said Act, and as if the same had been duly observed and performed.

Yamasee
slaves.

XIX. *Whereas*, by an Act of Assembly intituled an Act for raising the sum of Two Thousand Pounds of and from the reall and personall Estates and of and from the Profits and Revenues of the Inhabitants of this Province, for the carrying on the present Expedition against St. Augustin, and for appointing the number of men and shippes to be made use of and the manner and method of going against the said place,—ratified the tenth day of September, 1702; it is enacted that no person except James Stan-
yarne, John Ash, Stephen Bull, Esqs. and Robert Seabrook, shall buy any Indians slaves taken by the Yamasees and other Indians in the late expedition against St. Augustin, which was intended for the encouragement of the souldiers which inlisted themselves for that service, as by the said Act is sett forth, which hath by reason of the commissioners neglect not taken any effect, but is instead thereof a discouragement to the said Indians, who have deserved better; *Be it enacted*, that any person whatsoever may buy any of the slaves taken by the Yamasees and other Indians in the said expedition, any thing in the said Act to the contrary contained in any wise notwithstanding.

*Read three times, and ratified in open Assembly,
the eighth day of May, 1703.*

N. JOHNSON,
THO. BROUGHTON,
JAMES MOORE,
ROBERT GIBBES,
EDM. BELLINGER,
ROBERT DANIELL,
HENRY NOBLE.

No. 206. AN ACT for the better Settling and Regulating the Militia, and appointing Look-Outs.

(Ratified 8th May, 1703. *See last volume.*)

No. 207. AN ACT for the Keeping and Maintaining a Watch and Good Orders in Charlestown.

(Ratified 8th May, 1703. *See last volume.*)

A. D. 1703.

AN Additional ACT TO AN ACT FOR RAISEING A PUBLICK STORE OF
POWDER. No. 208.

FORASMUCH as heretofore Masters of Vessells coming into this Province have made short entrys with the Powder Receiver of the burthen of their vessells; for the prevention whereof for the future,

I. *Be it enacted* by his Excellency John Granville, Esq. Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the Members of the General Assembly, now met at Charlestown, for the South-west part of this Province, *And it is enacted* by the authority of the same, That all masters or owners of vessells who shall hereafter arrive in this Province, shall make oath before the Powder Receiver, and he is hereby impowered to administer the same, of the length of keel, breadth of beam and depth of hold, of their respective vessells; and the breadth being multiplied by the length and that again multiplied by the depth, and divided by ninety-five, shall be reckoned and accounted the burthen of such vessell. And that every master or owner of any ship or vessell shall pay so much powder per tun into the hands of the powder receiver, for the use of the publick, as by an Act entituled an Act for Raiseing of a Publick Store of Powder for the Defence of this Province, is provided, not exceeding two third parts of the tunnage of his or their ships or vessells, measured or to be measured in manner as aforesaid. And in case the master or owner of any ship or vessell shall refuse to make oath before the powder receiver, to the length, breadth and depth of his ship or vessell as aforesaid, or shall declare to the powder receiver that he knows not the aforesaid dimensions of his ship or vessell, and therefore cannot make oath to the same, that then he shall immediately go on board his respective ship or vessell to inform himselfe of the measure and dimensions aforesaid; or upon any master or owner's refusall so to do, then the said powder receiver is hereby impowered to repaire on board and measure such ship and vessell in manner aforesaid, for which he shall be allowed by such master or owner neglecting or refuseing to make oath or go on board as aforesaid, the sum of twenty shillings, to be recovered as in the Act of Small and Mean Causes is appointed.

II. *And it is further enacted* by the authority aforesaid, That the powder receiver for the time being, for every powder receipt he shall sign, be allowed fifteen pence, and no more.

III. *And be it further enacted*, That that person whom the Generall shall think fitt to nominate and commissionate captain of the battery of great gunns, shall be receiver of all the powder to be paid by this Act, and shall have and take for receiving the same, ten pound for every hundred pound; and the captain aforesaid shall take care of, keep clean and in good order, all the publick armes, ammunition and habiliments of war, and shall always provide and pay two montrosse for the great gunns. And the better to enable and encourage the said captain to do the same, *It is hereby enacted*, that the Publick Receiver, by order of the Generall, shall pay to the said captain forty pounds yearly, and shall have a brick house built at the publick cost, for keeping the powder, armes and all other stores and habiliments of war.

IV. And for the better securing Charlestowne from fire, *Be it enacted*, That all merchants and other persons which keep powder to sell, shall

A. D. 1703.

put the same into the house to be built as aforesaid, as soon as the same shall be built, and shall pay to the captain aforesaid for his care and trouble of takeing in and delivering out, and for the time it shall be there, be it more or less, two shillings for every barrell; and no person whatsoever, inhabitant of Charlestowne, shall keep in any house in Charlestowne, at one time, more than one quarter of a barrell of powder, under the penalty of five pounds for every month he shall keep in any house aforesaid more than a quarter of a barrell as aforesaid, to be recovered by bill, plaint or information, in any court of record within this part of this Province, one moiety or half part thereof to him or them that will inform and sue for the same, and the other half part to be paid into the hands of the overseer of the poor, for the use of the poor.

V. *And be it further enacted*, That this Act and every thing therein contained do continue in force two years, and from thence to the first sessions of the next General Assembly after.

VI. *And be it also enacted* by the authority aforesaid, That an Act for Raising of a Publick Store of Powder for the Defence of this Province, ratified in open Assembly the eighth day of October, one thousand six hundred ninety-eight, and since continued by a Continueing and Reviveing Act ratified in open Assembly the sixteenth day of November, one thousand seven hundred, and again continued by a Continueing, Reviveing and Repealing Act, ratified in open Assembly the tenth day of September, one thousand seven hundred and two, is hereby declared and enacted (except what is in this Act altered) to be and continue in force two years, and from thence to the next sessions of the General Assembly after, and no longer.

*Read three times, and ratified in open Assembly,
the eighth day of May, 1703.*

N. JOHNSON,
THO. BROUGHTON,
JAMES MOORE,
ROBERT DANIELL,
EDM. BELLINGER,
ROBERT GIBBES,
HENRY NOBLE.

NOTE.—See the Reviving Act of April 9, 1706.

No. 209. *AN ACT TO REVIVE AND REPEAL THE SEVERAL ACTS WITHIN
MENTIONED.*

WHEREAS severall of our temporary laws are expired, which if not revived, may prove prejudicial to the welfare of this Collony;

I. *Be it therefore enacted* by His Excellency John Granville, Pallatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the Generall Assembly, now met at Charlestowne, for the south-west part of this Province, *And it is enacted* by the authority of the same, That an Act entituled an Act for the Entry of Vessels, ratified in open Assembly, the eighth day of October, one thousand six hundred ninety and eight; and an Act entituled an Act for Ascertaineing of Publick Officer's Fees, ratified in open Assembly, the eighth day of October, one thousand

No. 164.

No. 165.

six hundred ninety and eight; and an Act entituled an Act Inhibiting the Trading with Servants and Slaves, ratified in open Assembly, the sixteenth day of March, one thousand six hundred ninety-five; and an Act entituled an Act to Prevent Marriners and Seamen Running into Debt, ratified in open Assembly, the sixteenth day of March, one thousand six hundred ninety-five; and an Act entituled an Act to Raise the Currant Coyne, and for the Promoteing of the Currancy of Heavy Money, ratified in open Assembly, the first day of March, one thousand seven hundred; and an Act entituled an Act for the Prevention of Runaways Diserting this Government, ratified in open Assembly, the first day of March, one thousand seven hundred; and also an Act entituled an Act for Registering Births, Marriages and Burialls, ratified in open Assembly, the sixteenth day of March, one thousand six hundred ninety and five; are hereby declared revived and enacted to be in force for and dureing the full terme and time of two years from and after the ratification hereof, and from thence to the next sessions of the General Assembly after, and no longer; any limitation in the before recited Acts contained to the contrary in any wise notwithstanding.

II. *And be it further enacted* by the authority aforesaid, that an Act entituled an Act for the Better Regulateing the Proceedings of the Court of Admiralty in Carolina, and the Fees for the same, ratified in open Assembly, the first day of March, seventeen hundred, is hereby declared repealed, revoked, disannulled and made void forever; any limitation in the said Act contained to the contrary notwithstanding.

*Read three times, and ratified in open Assembly,
the 8th day of May, 1703.*

N. JOHNSON,
THOMAS BROUGHTON,
JAMES MOORE,
ROBERT DANIELL,
EDM. BELLINGER,
ROBERT GIBBES,
HENRY NOBLE.

AN ACT for Cutting a Creeke out of the Head of New Towne Creeke into Stono River. No. 210.

(Ratified 17th September, 1703. Obsolete. *See last volume.*)

AN ACT FOR THE ENCOURAGEMENT OF KILLING AND DESTROYING BEASTS OF PREY. No. 211.

(*This Act is not numbered in the original; it is No. 211 of Trott and 209 of Grimke.*)

WHEREAS, the planters of this Province do yearly suffer considerable damage by beasts of prey, for the prevention thereof, and for the encouragement of destroying the same,

I. *Be it enacted* by his Excellency John Granville, Esq. Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the

A. D. 1703.

No. 135.

No. 136.

No. 184.

No. 187.

No. 137.

No. 181.

A. D. 1703. General Assembly, now met at Charlestown for the south-west part of this Province, *And it is enacted* by the authority of the same, that whatsoever white person by himselfe or slave shall destroy and kill wolfe, tyger or beare, shall have tenn shillings; and for every wild catt, five shillings; the head thereof being first brought to the next Justice of the Peace, (they upon their oaths declareing they killed the same,) which said head so brought, shall be by him burnt, or their eares cutt off; to be paid for out of the Publick Treasury, by a note under the hand of the said Justice, to the Publick Receiver for the time being, which note shall be a sufficient discharge to the Receiver for the same.

Recompense
for killing
beasts of prey.

Recompense
to Indians.

II. And every Indian, for killing every wolfe or tyger, shall have for each five shillings, and for each wild catt, two shillings and six pence; to be paid by the Justice, and he reimbursed by the said Receiver; and the heads of the said beasts to be burnt, or their eares cutt off by the said Justice.

III. *And be it further enacted*, That this Act, and every thing therein contained, continue to be, and remaine in full force two years, and no longer.

*Read three times and ratified in open Assembly,
the eighth day of May, 1703.*

N. JOHNSON,
THOMAS BROUGHTON,
JAMES MOORE,
ROBERT DANIELL,
EDM. BELLINGER,
ROBERT GIBBES,
HENRY NOBLE.

NOTE.—The Tyger above mentioned, is the animal now known as a Panther.

No. 212. AN ACT FOR THE ASCERTAINING THE GAUGE OF BARRELLS, AND FOR AVOIDING DECEITS IN SELLING AND BUYING BEEF AND PORK, PITCH AND TARR.

Preamble.

FORASMUCH as beef and pork are two of the principall commodities of the product of this part of this Province, and great quantities thereof are transported beyond the Seas; *And whereas*, complaint has been made, that the barrells which the said commodities are usually packed up in within this part of this Province, are of less number of gallons than barrells which are used for the holding of the said commodities in other countryes, and that great frauds and deceits are practised and used in the false packing, and in the barrelling up bull's flesh, boar's flesh, and other unmerchantable and corrupt meat, to the great abuse of traders in the said commodities, and to bringing said commodities into great disrepute abroad, for remedy whereof,

I. *Be it enacted* by His Excellency John Granville, Esq. Pallatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the Members of the Generall Assembly now met at Charlestown for the South-west part of this Province, *And it is enacted* by the authority of the same, that from and after the ratification of this Act, no cooper or other person whatsoever shall

Barrel to
contain 38
gallons, wine
measure.

expose to sale any barrell or half barrell, for the packing up beef or pork, or for the putting up pitch or tarr, but in such barrells as shall containe eight and twenty gallons, and such half barrells as shall containe fourteen gallons, wine measure, at the least; and all barrells and half barrells that shall be exposed to sale, to hold beef or pork, shall be made of good seasoned wood; and the said cooper or other person, before he or they do expose to sale any barrells or half barrells for beef, pork, pitch or tarr, shall sett his or their proper burnt marke upon every such barrell or half barrell, which marke he or they shall cause first to be recorded in the Secretary's Office of this part of this Province; upon paine that every cooper or other person or persons offending in makeing such barrells or half barrells of lesser number of gallons than is aforesaid, or makeing and exposeing to sale any such barrell or half barrell for packing up beef or pork, of unseasoned wood, or not putting his or their proper burnt marke upon every such barrell or half barrell, or not recording his or their marke in the Secretary's Office aforesaid, shall for every such offence, respectively forfeit the sume of five shillings for every such barrell, and two shillings and six pence for every such half barrell.

A.D. 1703.

II. *And be it further enacted* by the authority aforesaid, that no planter, merchant, or other person whatsoever, shall from and after the ratification of this Act, expose to sale any pitch or tarr put into, or any merchantable beef or pork packed up in any other barrell or half barrell than such as shall be marked by the cooper or other person makeing the same as aforesaid; and that no bull's flesh, boar's flesh, or any other unmerchantable meat shall be mixed or packed up into any barrell or half barrell with any merchantable beef or pork, but that the said unmerchantable beef and pork shall be packed up apart by themselves, into some other cask than such barrells or half barrells aforesaid; and that no one peice of beef or pork packed up in any barrell or half barrell be cutt larger or do containe more than sixteen pound weight; and that the said beef and pork be well, truely and justly laid and packed, upon paine of five shillings for every barrell of pitch, two shillings and six pence upon every barrell of tarr, fifteen shillings upon every barrell of pork, and ten shillings upon every barrell of beef he or they shall expose to sale, and is not so marked, and that bull's flesh, boar's flesh, or any other unmerchantable or corrupt meat shall be mixed or packed up in any barrell or half barrell, or that any one peice of beef or pork be cutt larger or do containe more than sixteen pound weight, or that the same beefe or pork be untruly, deceitfully and falsely packed, and so proportionably for every half barrell of each.

Barrells to be marked.

No bull's or boar's flesh to be mixed with other meat.

Penalty.

III. *Provided always, and it is enacted*, that no planter or other person shall be liable to any of the penalties and forfeitures in the clause or paragraph last mentioned, that do not sell and deliver his or their beef or pork before the barrells that contains the same be marked with the packer's marke.

IV. *And be it further enacted* by the authority aforesaid, that Richard Prew and Daniel Goble, and so many and such deputies as he or they shall appoint, and are allowed and approved of by Mr. John Buckley, Mr. Edward Loughton and Mr. William Gibbons, or any two of them, be and are hereby nominated and appointed searchers, guagers and packers of Charlestowne; and the said Richard Prew and Daniel Goble

Searchers, Guagers and Packers appointed.

A D. 1703.

shall find store house room or yard roome on some front lott in Charles-towne for all beef and pork that shall be sent to the said Richard Prew and Daniell Goble to be searched and packed, without charges; *Provided*, always, that they shall not be obliged to find store room as aforesaid, for any one parcel of beef or pork, for a longer time than three months.

Proceedings on complaint. V. *And be it further enacted* by the authority aforesaid, that if any person shall have reason to believe that the said Richard Prew and Daniell Goble, or their deputies, doth refuse to put the packer's marke upon any barrell or half barrell of beefe or pork, which is good and merchantable, and every way qualified according to the intent of this Act, such persons shall apply themselves to the Commissioners aforesaid, or any two of them, to view the said beef or pork; and if the said Commissioners, or any two of them, shall judge the said beef or pork merchantable, then, and not otherwise, the said packers, or either of them or their deputies, shall putt the said packer's marke on said beef or pork.

Burning irons to be procured. VI. *And be it also enacted*, that the said packers and each of them shall procure irons for the burning or markeing all barrells or half barrells of beef or pork, which iron shall have this stamp, **** which shall forever hereafter be taken and accounted the packer's marke of this part of this Province, and the said packers shall burn the said marke and the two first letters of their names, respectively, on the bung staff of the said barrell or half barrell; and that the said packers and their deputies, before he or they do execute any part of his or their office, shall take oath duely and truly to search, gauge, pack and mark all and every merchantable barrell or half barrell of beef or pork that any person or persons whatsoever shall or do require them to search, gauge, pack and mark, and shall do the same as the meat is rendered unto him or them, without neglect or unnecessary delays, on the penalty and forfeiture of forty shillings for every default.

No meat to be exported without the packer's mark. VII. *And be it further enacted*, that no person or persons whatsoever, shall from and after the ratification of this Act, carry or transport, or cause to be carried or transported, or putt on board any vessell whatsoever, with an intention to carry it to any of the ports beyond the seas, any barrell or half barrell of beef or pork, unless the packer's mark of this part of this Province, be sett upon the bung staff of every such barrell or half barrell, upon pain to forfeit ten shillings for every such barrell, and five shillings for every such half barrell he or they shall put on board or transport as aforesaid.

Penalty on counterfeiting. VIII. *And be it further enacted*, that no person or persons whatsoever, do presume to counterfeit and sett the said packer's mark upon any barrell or half barrell, or other cask whatsoever, upon pain of the forfeiture of five pounds for every such offence.

The Cooper's mark made necessary. IX. *And it is further enacted* by the authority aforesaid, that the said packers or their deputies shall not sett the said packer's mark of this part of this Province upon any barrell or half barrell of beef or pork that hath not on the said barrell or half barrell the cooper's mark aforesaid, nor any barrell or half barrell packed up with bull's flesh, boar's flesh, or any other unmerchantable or corrupt meat, or that hath any of the same mixed among merchantable meat, nor any one barrell or half barrell of beef or pork that is untruely, deceitfully or falsely packed, upon pain of twenty shillings for every barrell, and ten shillings for every half barrell for every such offence; and that the said packers, or either of them, shall not demand unreasonable fees for the due execution of their office.

Packer's fee one royal. X. *Be it further enacted*, that the said packers or either of them nor their deputys take no more for searching, guaging, packing and marking of a

barrell or half barrell of beef or pork, than one royall for every barrell or half barrell he or they shall search, guage, pack, mark and again head up. A. D. 1703.

XI. *And it is enacted* by the authority aforesaid, that Isaac Child for Cooper River, and John Deer for Ashley River, are hereby made and appointed packers and guagers of all beef and pork, and all other things that by the said Act ought to be packed, guaged or marked, that shall be putt on board any vessell in Ashley or Cooper River above Charles-towne.

XII. *And be it further enacted* by the authority aforesaid, that if Richard Prew, Daniell Goble, Isaac Child and John Deer, packers, or either of them, or any other packer hereafter appointed, shall depart this life, or go out of this Province, or neglect to do their duty, the Governor for the time being is hereby impowered and authorized to appoint another in his or their room, and he or they so appointed shall have and receive the fees of all such goods so packed, guaged and marked by him or them as aforesaid, and shall be liable to the same fines and forfeitures, and under the same penalties and restrictions as in this Act against the said packers herein nominated is provided, to be recovered in such manner and forme, and for such use as fines and forfeitures against the said packers nominated in this Act is ordained and appointed. Packers dying or being absent.

XIII. *And it is further enacted* by the authority aforesaid, that all and every the offences against this Act that shall or do not arise to above the sum of forty shillings, are to be inquired of, sued for, heard and determined before any one or more of Her Majestie's Justices of the Peace in this part of this Province, in the manner as small and mean causes are by virtue of an Act entituled an Act for the Tryal of Small and Mean Causes, made and ratified at Charlestowne, the fifteenth day of October, one thousand six hundred ninety and two; and that all offences against this Act which shall arise to above forty shillings, to be sued for, heard and determinated in the Court of Pleas in this part of this Province, by action of debt or information, wherein no essoign, protection or wager of law shall be allowed to the defendant; and the one moiety of all forfeitures by virtue of this Act, shall be to the public use of this part of this Province, to be paid into the hands of the treasurer appointed by the Generall Assembly, and to be disposed of as the Assembly for the time being shall think fit, and the other half to him or them that shall sue for the same, besides the costs thereby expended; *Provided*, always, that every suite and information which shall be brought upon this Act, shall be commenced in twelve months after any offence or offences therein mentioned is committed. Offences how to be heard.

XIV. *And whereas*, many frauds are daily committed by some persons that makes and sells tarr, to the great prejudice and decay of that trade, and to the great disreputation of this Collony, for remedy thereof, *Be it enacted* by the authority aforesaid, that from and after the first day of October next, no person or persons whatsoever shall transport or cause to be transported, and carried aboard any vessel whatsoever, with an intention to carry it to any port beyond the seas, any barrell or half barrell of pitch or tarr, unless the packer's mark, before provided to be sett on beef and pork, be sett upon the same, upon the forfeiture of ten shillings for every barrell, and five shillings for every half barrell he or they shall put on board as aforesaid. Tarr barrells to have the packer's mark.

XV. *And be it further enacted*, that the packer shall receive for surveying and examineing every merchantable barrell of pitch and tarr, and for setting their mark thereon, two pence for every barrell so surveyed, examined and marked as aforesaid. Packer's fee for pitch and tar.

A. D. 1703.

XVI. *And be it further enacted*, that this Act, and every thing therein contained, do continue in force three years, and no longer.

*Read three times and ratified in open Assembly,
the 17th day of September, 1703.*

N. JOHNSON,
THOMAS BROUGHTON,
JAMES MOORE,
ROBERT GIBBES,
NICHOLAS TROTT,
HENRY NOBLE.

NOTE.—See Act of Feb. 17, 1704-5, and 8th Feb., 1706-7.

No. 213. AN ACT FOR TAKEING UP AND KILLING WILD, UNMARKED AND
OUT-LYING CATTLE.

WHEREAS, the great numbers of wild, unmarked and out-lying cattle have drawn tame cattle from their ranges, as well as eat up their winter food, for prevention whereof,

I. *Be it enacted* by his Excellency John Granville, Esq., Pallatine, and the rest of the true and absolute Lords and Proprietors of the Province of Carolina, by and with the advice and consent of the General Assembly, now met at Charlestown, for the south-west part of this Province, *And it is enacted* by the authority of the same, That every master, mistress, or overseer of every family which lives on the north side of Edisto River, above Joseph Cooper's plantation, and every master, mistress, or overseer of every family living on the North side of Stono, above Mr. Fox's plantation, and on the north and south side of Ashley River, above the plantation of Shem Butler, on the south side, and the plantation of Mr. Christopher Smith's, commonly called Smith's cowpen, on the north side, inclusive; and that every master, mistress, or overseer of every family living on the east and west side of Cooper River, above the plantation of Landgrave Thomas Smith, on the west side, and Daniell's Island, and from thence as far north and eastward as the sea shore, on the north east side of the said river, and from thence as far inland as the north side of Santee River; and that every master, mistress or overseer of every family living between any of the rivers aforesaid, and above any of the plantations before mentioned, which will not make oath when thereunto required, before some one or more of the commissioners herein hereafter nominated and appointed for that particular division or precinct in which he, she or they live, that he, she or they have not, to the best of their knowledge, one hundred head of neat cattle belonging to any one or more of their stock houses, cow pens, or plantations lying within the limits aforesaid, shall send one man ***** provision and other things convenient for that service, for every hundred head of cattle he, she or they have, at such time and to such place, and for so many days as the commissioners for that division, or the major part of them herein hereafter nominated, shall appoint, to hunt for, kill and take up unmarked, wild and out-lying cattle; and every person aforesaid, living within any of the limitts aforesaid, shall make oath before any one or more of the commissioners living nearest to him, when by him or them thereunto required, how many tame cattle he doth believe he hath, or of right he

ought to have ; and every person as aforesaid, which shall refuse to make oath as aforesaid, when thereunto required as aforesaid, shall send so many men and horses fitted as aforesaid, as the commissioners for that division, or the major part of them, shall appoint him or them to send.

A. D. 1703.


II. *And be it further enacted* by the authority aforesaid, That every person aforesaid, which shall refuse or neglect to send so many men and horses, at such time, for so many days, and to such place, to hunt for, take up or kill wild and unmarked cattle, when and as often as the commissioners for that division, or the major part of them, shall order and appoint, shall forfeit for every day's neglect, for every man and horse, the sum of ten shillings; and every person aforesaid, which by order as aforesaid, shall send out men and horses as aforesaid, shall and may take, drive, kill and carry away all the marked cattle to him belonging, and take up as aforesaid, without any charge.

III. *And be it further enacted* by the authority aforesaid, That every person which hath under the number of one hundred head, any cattle taken up as aforesaid, shall pay to one or more of the commissioners appointed for that division in which their respective cattle are taken up, ten shillings for every beast to them delivered in any pen or pasture; and it shall and may be lawfull for the commissioners of every division, or the major part of them, to order all marked cattle which the owners thereof, by the space of three days after notice of their being taken up as aforesaid, shall neglect to drive away, to be killed and disposed of to the best advantage, and shall pay to the respective owners one half of the neat proceeds of the said cattle; *Provided*, always, *And it is hereby enacted*, That every person living within or without any of the limits aforesaid, which hath or hath not one hundred head of cattle, and shall send a man and horse to hunt for cattle as aforesaid, shall have all his marked cattle taken up as aforesaid, and delivered him without charge.

IV. *And be it further enacted* by the authority aforesaid, That the commissioners of every division, or the major part of them, shall have power, and they are hereby empowered to appoint the times and place of hunting, what number of men and horses every one shall send, provided it be in proportion to the number of their cattle, as before appointed, and that no person shall be ordered to send more than four men and four horses at one time, and how many days at once each person shall hunt, and to what place or places the cattle taken up shall be driven, and shall have power to dispose of all moneys which shall be paid and become due by this Act, either by hireing men to make winged pennis in the woods to drive cattle into, or to fence in pastures for the convenient keeping them after they are taken up, till they can be delivered to their respective owners, or equally divide it among the men which shall drive or take up cattle as aforesaid, or hire men, if needful, to drive cattle as aforesaid.

V. *And be it further enacted*, That every person as aforesaid which shall or will make oath that the cattle of his mark, taken up as aforesaid, are tame cattle, and have used to come to his or his neighbour's pen within eight months, shall have such cattle delivered him without paying for the same, as aforesaid.

VI. *And be it further enacted*, That all money which by any manner of way shall be forfeited and become due by this Act, shall be levied (if otherwise refused to be paid) by a warrant under the hands and seals of any two or more of the commissioners, directed to a constable, who is hereby commanded to execute the same within six days after the receipt thereof, under the penalty of twenty shillings for every neglect, to be levied as other fines and forfeitures are appointed to be levied ; and for the bet-

A. D. 1703.

ter encouragement of the persons which shall be sent to hunt for and take up unmarkt, wild and outlying cattle whatsoever, (the sucking calves of markt cowes only excepted,) by the commissioners of that division, or the major part of them, in which they are taken up, shall be given to the persons which shall take them up, to be equally divided amongst them, on condition that they immediately kill them, and not otherwise.

VII. *And be it further enacted and declared*, That Thomas Steers, William Fuller and John Cattle shall be and are hereby appointed commissioners for the south side of Ashley River, from Shem Butler's to Stephen Fox's plantation on the north side of Stono to the plantation of Joseph Cooper on the west side of Edisto; and Col. James Risbee, George Cauty and Thomas Barker, shall be and are appointed commissioners for the north side of Ashley River, from Christopher Smith's Cowpen to Thomas Butler's, and the south side of Goose Creek to the plantation of Mr. Jacob Allens; and Col. Thomas Broughton, John Berringer, Major Benjamin Waring, Isaac Porcher and William Sanders, shall be and are hereby appointed commissioners for the north side of Ashley River, from the house of Thomas Butlers inclusive, to the plantation commonly called Mepshoe, with all the inland plantations as far as John Berringer's Cowpen; and Paul Le Bas, Phillip Rowland and Capt. John Guppell shall be and are hereby appointed commissioners for both sides of the western branch of Cooper River, from Mepshoe to Elias Ball's plantation, and all the inland plantations, with the Cowpen of Capt. Benjamin Schengingh; and Mr. John Ashby, Mr. Denis Hayes and Mr. Richard Beresford, are hereby appointed commissioners for both sides of the eastern branch of Cooper River, from the said Elias Ball's house to Sewee, to the eastward, and to the house of Mr. Beresford exclusive, with the plantations on the west side of Wandoe above the said Beresford; and Major John Boone, Nathaniel Law and Richard Fairchild, shall be and are hereby appointed commissioners for all the plantations on the east side of Wando River, from the house of Capt. John Collins, late Primatt's, inclusive, to the plantation of the Honourable the Governour, on Sewee; and Phillip *****, Peter Gaillard and Daniel Huger, shall be and are hereby appointed commissioners for all the plantations on Santee River.

VIII. *And it is further enacted* by the authority aforesaid, That if any of the commissioners, in any of the respective divisions aforesaid, shall neglect their duty, dye, or remove out of their division, or depart this Province, the Governour for the time being is hereby impowered to appoint others in his or their room so neglecting, dead, removed or gone off, as aforesaid, and him or them so appointed shall have the same power to all intents and purposes as those that are appointed by this Act.

IX. *And be it further enacted* by the authority aforesaid, That this Act and every thing therein contained do continue in force for and during the term and time of two years, and no longer.

*Read three times, and ratified in open Assembly,
this seventeenth day of September, 1703.*

N. JOHNSON,
THO. BROUGHTON,
JAMES MOORE,
ROBERT GIBBES,
NICHOLAS TROTT,
HENRY NOBLE.

A. D. 1703.

A Continuing and Additional ACT to an Additional Act for making and mending Highways. Ratified 17th Sept. 1703.

No. 214.

(See last volume.)

An Explanatory and Additional ACT to an Act entituled An Act for laying an Imposition on Furs, Skins, Liquors and other Goods and Merchandize imported into and exported out of this part of the Province, for the Raising of a Fund of Money towards the Defraying the Publick Charges and Expences of this Province, and paying the Debts due for the Expedition against St. Augustin; Ratified in open Assembly the sixth day of May, 1703. No. 215.

(The present Act is ratified the 17th day of Sept. 1703; but the material clauses are so much defaced and torn, that I omit copying it.)

AN ACT TO MAKE AUTHENTICK THE COPY OF AN ACT ENTITULED AN ACT AGAINST BASTARDY, THE ORIGINAL BEING LOST. No. 216.

(The Copy so made is not to be found. The original Act is preserved by Trott, p. 96, and the Act making the Copy authentic is in Trott, p. 101.)

WHEREAS the Act against Bastardy, ratified in open Assembly the seventeenth day of September, 1703, was by the Clerk of the Assembly delivered to the Grand Jury the last Sessions and General Goal Delivery, which said Act by them was not since returned to the said Clerk, so that there now only remains a Copy of the said Act entered in the Book of Acts, among other Acts without limitation;

Be it therefore enacted by his Excellency John Granville, Esq. Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, *And it is enacted* by the authority of the same, That the Copy of the said Act against Bastardy entered in the said Book with other Acts without limitation, shall be and is hereby declared firm and valid in law, as if the said Act had been signed and sealed by the Right Honourable the Governour, and the rest of the Right Honourable the Lords Proprietors Deputies; which said Act shall be signed by the Governour and Speaker of the House of Commons, as the Original, who are hereby desired and impowered to sign the same; which said Act so signed by them, shall be deemed and esteemed the Original Act accordingly.

Read three times, and ratified in open Assembly,
December 23, 1703.

N. JOHNSON,
THO. BROUGHTON,
NICHOLAS TROTT,
JOSEPH MORTON,
ROBERT GIBBES,
HENRY NOBLE,

A. D. 1703.

AN ACT AGAINST BASTARDY.

Preamble.

WHEREAS great charges ariseth upon many places in this Province by reason of Bastardy, besides the great dishonor to Almighty God, and the evil encouragement of lewd life; For remedy whereof,

Proceedings
of a Justice of
Peace against a
woman with
child of a
bastard.

I. *Be it enacted* by his Excellency John Granville, Esq. Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, and by the authority of the same, That at any time after the ratification of this Act, if any woman in this Province be with child of a bastard child, it shall be lawful for any Justice of the Peace, and he is hereby required to issue out his warrant, directed to any of the Constables of this Province, to convene such woman before him, and examine her upon oath who is the father of such bastard child; and if the Justice of the Peace doth believe the woman to be with child of a bastard child, he shall bind the woman by recognizance in the sum of twenty pounds, with two sufficient sureties in ten pounds each, that she shall appear at the next General Sessions of Goal Delivery, and for want of such security shall commit her to prison; and at the next General Sessions, if the woman be not then delivered, the Chief Judge of the General Sessions may order the continuance or renewal of her recognizance, or in case no recognizance hath been given, that she shall give sufficient security, that she shall appear at the next General Sessions after the child is born, (for want of such security to be remanded to prison,) at which Sessions, or any other Sessions whatsoever, if the woman be presented or indicted for having had a bastard child, and shall be convicted thereof by confession or verdict of the jury, such woman so offending, for the first offence shall be fined not exceeding ten pounds, and not less than five pounds, to be paid within twenty days after judgment given, and in case of failure of payment shall be publicly whipped on the bare back, in the usual places in Charlestown, not exceeding thirty one stripes and for the second offence, upon conviction thereof, shall be fined not exceeding fifteen pounds, and not less than ten pounds, to be paid in twenty days after judgment given, and in case of failure of payment shall be publicly whipped as aforesaid, not exceeding thirty nine stripes; and for the third offence shall be tied to the tail of a cart, and publicly whipped as aforesaid, through Charlestown, through so many streets as shall be ordered by the Chief Judge of the General Sessions, and the like punishment shall be for every time she shall again offend in the like kind.

Punishment
for the first
offence.

For the second.

For the third,

and for every
time after.

Proceedings
against the
father of a
bastard child.

II. *And be it further enacted* by the authority aforesaid, That upon the examination of any woman before a Justice of the Peace, touching the father of her bastard child, as is before directed by this Act, that in case she doth accuse any person upon oath to be the father thereof, that the Justice of the Peace shall issue out his warrant, directed to any of the Constables of this Province, to convene such person before him, and shall bind him by recognizance in the penal sum of twenty pounds, with two sufficient sureties in ten pounds each, that he shall appear at the next General Sessions and Goal Delivery; and in case he shall not give such security, the Justice of the Peace shall commit him to prison; and upon his appearance at the General Sessions, if the woman be not delivered, the Chief Judge of the Sessions may order the continuance or renewal of his recognizance, or in case no recognizance hath been given, that he shall give security to appear at the next General Sessions after the child is

born, and for want of such security, to be committed or remanded to prison till such security be given for his appearance as above directed. A. D. 1703.

III. *And be it further enacted* by the authority aforesaid, That he that is accused by any woman to be the father of a bastard child begotten of her body, she continuing constant in such accusation being examined upon oath and put upon the discovery of the truth in the time of her travail, be adjudged the reputed father of such child, notwithstanding his denial, unless the pleas and proofs made and produced on the behalf of the man accused, and other circumstances, be such as the Chief Judge of the General Sessions shall see reason to judge him innocent, and acquit him thereof; but if the said Chief Judge of the General Sessions shall adjudge him to be the reputed father of the bastard child, then the said Judge shall set a fine upon him not exceeding ten pounds, and not less than five pounds, to be paid within twenty days after judgment given, and in case of failure of payment, shall be publicly whipped as aforesaid, not exceeding thirty-one stripes.

What person to be adjudged to be the father, and his fine.

IV. *And be it further enacted* by the authority aforesaid, That if any woman being with child of a bastard child, shall refuse to discover to the Justice of the Peace who shall examine her upon oath, who is the father of her child, that then the said Justice of the Peace shall commit such woman to prison, there to continue without bail till she shall discover to the Justice of the Peace, who is the father of the child; and upon such discovery, and not before, shall be discharged out of prison, upon giving security to appear at the next General Sessions as before directed by this Act; and in case she shall continue obstinate, and not discover the father before the General Sessions, she shall then be publicly examined by the Judge of the Sessions touching the father of her bastard child, and in case of her then refusal to discover the father, she shall be fined forty pounds, and to be continued in prison till payment thereof; and in case she shall continue in prison for the non-payment of the fine imposed upon her for not discovering the father of her bastard child, till the next General Sessions after her being delivered of her child, that then the Judge of the Sessions shall order her to be sold as a servant to any person that will pay the said fine for her, for any term not exceeding four years, and the Provost Marshal is hereby impowered to sell her pursuant to such order of court, and shall pay the monies received for her to the Publick Receiver of this Province, to be disposed of as hereafter directed by this Act.

Penalty upon a woman refusing the discovery.

V. *And be it further enacted* by the authority aforesaid, That any woman being examined by any Justice of the Peace touching the discovery of the father of her bastard child, in case she shall then refuse to tell who is the father thereof, if afterwards she shall discover the father, in case the person she accuseth to be the father of her child shall be then gone out of this Province, and shall not return again at or before the next General Sessions after the woman is delivered of her bastard child, that then the woman shall be fined so much as she should have been in case she had not at all discovered the father, and for non-payment to be proceeded against as before directed.

Or not discovering till the father is gone off from the Province.

VI. *And be it further enacted*, by the authority aforesaid, That if any woman shall accuse a person of being the father of her bastard child, and in case he denieth the same, if the pleas and proofs made and produced on the behalf of the man accused, and other circumstances, be such as the Chief Judge of the General Sessions shall see reason to judge him innocent, then it shall be lawful for the said Judge of the Sessions, as a punishment of the woman for such her false accusation, to fine the woman

Or charging any one falsely.

A D. 1703.

The reputed father to maintain the child to the age of 10 years, to be kept and nursed by the mother.

any sum not exceeding twenty pounds, or to order her to be publicly whipped, at the discretion of the said Judge.

VII. *And be it further enacted* by the authority aforesaid, That upon any woman being convicted of having a bastard child, besides the fines imposed upon the mother and reputed father of such bastard child, in case the said bastard child be living, it shall be lawful for the Judge of the Sessions to order the reputed father, if discovered, to pay weekly to the commissioners of the poor, or the church wardens of Charlestown, so much as he shall think sufficient for the maintenance of the said bastard child, until the said bastard child shall attain unto the age of ten years; and shall further order that the said bastard child shall be nursed and kept by the mother until the said bastard child shall attain to the age aforesaid, and that the mother and reputed father shall jointly and severally discharge the said parish of and from all charges whatsoever, for, touching or concerning the keeping or relieving the same, excepting the mother or reputed father of such bastard child shall give sufficient security before the Judge of the Sessions, to indemnify the Parish or Province from any charges whatsoever, for, touching or concerning the keeping the same bastard child; and in case the order so made by the Judge of the Sessions as above directed, shall not be observed and performed, upon breach thereof either by the mother or reputed father of such bastard child, and complaint thereof made either to the said Judge or to any two Justices of the Peace, it shall be lawful for the said Judge or any two Justices of the Peace to commit the offending person or persons to prison, there to abide till he or she shall give security to obey the said order.

Conviction of a woman the testimony of a bastard child.

VIII. *And be it further enacted* by the authority aforesaid, That if any woman shall be convicted at the General Sessions of having a bastard child, a certificate of the record of such conviction of the mother, shall be sufficient testimony of such child being a bastard, and such child shall be liable to all those disabilities that by the law of England bastards are liable to.

Settlement made upon a bastard child to the prejudice of lawful issue to be void.

IX. *And be it further enacted* by the authority aforesaid, That if any person that is an inhabitant of this Province, or that hath any estate in this Province, shall have already begotten or hereafter shall beget any bastard child, the said person having lawful issue of his own, either child, children or grand-children living, and shall settle or convey either in trust or by deed of gift, or by legacy, or devise, or by any other way or means whatsoever, for the use and benefit of that bastard child, the whole or any part of his estate real or personal, to the disinheriting his lawful issue, all such conveyances, legacies and devises made or to be made, are hereby declared to be null and void in law. *Provided*, such settlement, gift, legacy or devise made to such bastard child do not exceed one tenth part of the real or personal estate of the person that makes such settlement, gift, legacy or devise; and further provided, that such tenth part do not exceed the value of one hundred pounds, current money of South Carolina, which if it doth, then to be void for all but one hundred pounds.

Provido.

Fines to be paid to the publick Receiver.

X. *And be it further enacted* by the authority aforesaid, That the fines arising by this Act shall be paid to the publick Receiver, to and for the support of the government of this Province, and the contingent charges thereof.

Forfeiture of a woman cohabiting with the same person by whom she had a bastard child.

XI. *And be it further enacted* by the authority aforesaid, That in case any woman hath had a bastard child by any person in this Province, in case she shall at any time after the ratification of this Act cohabit with the person by whom she hath had such bastard child, for every month she shall so cohabit with such person, excepting they are married, she shall

forfeit the sum of five pounds, to be recovered by action of debt, suit, bill, plaint or information, in any court of record in this Province, wherein noessoign, protection, priviledge, injunction, wager of law, or stay of prosecution by *Non vult ulterius prosequi*, or otherwise, shall be admitted or allowed.

A. D. 1703.

XII. *And be it further enacted* by the authority aforesaid, That if any free-man of this Province, shall at any time hereafter beget a woman-servant with child, he shall, over and above the forfeitures, pains and penalties by this Act provided and appointed, forfeit and pay unto the master or mistress of such servant, the full sum of five pounds current money of this Province, to be recovered by action of debt in any court of record in this Province; and in case of failure therein, shall serve the master or mistress of such servant double the time that she had to serve at the time of the offence committed, or shall procure one in his or their stead that shall be obliged so to do: Provided the said double time doth not exceed one year. And in case one servant shall beget another with child, then the man-servant shall after the expiration of his term, serve the master or mistress of the woman-servant double the time she had to serve at the time of the offence committed: Provided also, that the double time do not exceed one year.

Forfeiture of a free-man that shall beget a woman-servant with child.

*Read three times, and ratified in open Assembly,
September 17th, 1703.*

N. JOHNSON,
THO. BROUGHTON,
NICHOLAS TROTT,
JAMES MOORE,
ROBERT GIBBES,
HENRY NOBLE.

AN ACT FOR MAKING MARRINERS AND SAILERS MORE USEFULL IN TIME OF ALLARMS, AND FOR PUNISHING OF VICTUALLERS FOR ENTERTAINING OF PERSONS IN TIME OF ALLARMS. No. 217.

WHEREAS in time of allarms there is no post nor place of rendezvous appointed for all such marriners and sailors which belong to the vessells which may be at that time in the port of Charlestown, or in Cooper or Ashley rivers, for want whereof and a due regulation therein, the said men are not so usefull as they may be made if there was good orders and directions given them; For remedy whereof,

Preamble.

I. *Be it enacted* by his Excellency John Grauville, Esq. Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the Generall Assembly, now met at Charlestown for the south-west part of this Province, *And it is enacted* by the authority of the same, that from and after the ratification of this Act, all masters or commanders of any ship or vessell which shall come and arrive in the port of Charlestown, shall at the same time when he enters his vessell with the controller, give him a fair list or account of the number of men he hath brought with him, with their names and qualifications, distinguishing in the said account or list which are sailors and which are passengers; the which list the said controller is hereby ordered to file and keepe, or the same fairly to enter in

Masters of vessels to give a list of the men they bring with them.

A. D. 1703.

To repair to
the main guard
on an alarm.

a booke, to be represented to the Honourable the Governour at all times when His Honor shall want the same.

II. *And be it further enacted* by the authority aforesaid, That as soon as the allarm guns are fired and the drum beats, all masters or commanders of vessels which shall then be in this port, or any where near the same in Ashley or Cooper river, shall with their men (excepting one hand, which they may leave on board to looke after their vessell,) come on shoar and repair on the maine guard with their arms, there to receive the right honourable the Governour's or the commander in chief's orders; and if any one of the masters or commanders shall neglect so to do, he shall forfeit five pounds to the use of the poore of this Province. And whereas the sailers may not be on board at the time of allarm, they are hereby injoynd and commanded under the penalty of fifty shillings, to be disposed to the use of the poore, as above, wherever they are, as soon as they hear the guns fired and drum beat, to repair to the maine guard to their respective commanders; and if any sailer shall forfeit and be fined for any default by this Act, if he hath no money to pay it, shall suffer such corporall punishment as the commander in chief shall adjudge, (life and limb excepted.)

And obey the
Governor's
command.

III. *And be it further enacted* by the authority aforesaid, That all masters, commanders of vessels, marriners or sailers, shall punctually obey such orders and commands as shall be given to them by the right honourable the Governour or commander in chief, and shall keep the post wherein they shall be placed, be the same on shoar or on board; and if any master, marriner or sailers, shall neglect or refuse to obey the orders given unto them and every of them as above, he or they so offending shall forfeit for each and every default, if a master, five pounds, if a sailer fifty shillings; and on his or their insufficiency, such corporall punishment (life and limb excepted) as aforesaid, for the use above mentioned, to be recovered in such manner and forme, by the commissioners of the poore, as fines and forfeitures in the like case in the Act entituled an Act for the better settling and regulating the Militia and appointing Look-Outs, is ordained and appointed.

In time of
alarm no strong
drink to be sold.

IV. *Whereas*, in the Act for the better settling and regulating the Militia and appointing Look-Outs, among other things therein enacted, it is provided that no tavern or punch house keeper shall sell to any person any strong drink in time of allarms, from and after the beat of the tattoo untill the beat of the travallia, under the penalty of twenty shillings; and for as much as the said penalty is not sufficient to deter the said house-keepers from selling the said liquors at the times aforesaid, *Be it therefore enacted* by the authority aforesaid, That if any tavern or public house keeper shall in time of allarms entertaine any person in their houses or give them drink, from and after the beat of the tattoo, before and untill the beat of the travallia, or whilst otherwise the said person ought to be upon the main guard or other duty, shall over and above the penalty of the forerecited Act, suffer such imprisonment on the main guard as the Generall shall think fitt, and shall not from thence be discharged till he hath paid his fine appointed in the said Act; any thing in the said Act contained to the contrary notwithstanding.

*Read three times and ratified in open Assembly,
the three and twentieth day of December, 1703.*

N. JOHNSON,
THO. BROUGHTON,
NICHOLAS TROTT,
JOSEPH MORTON,
ROBERT GIBBES,
HENRY NOBLE.

A.D. 1703.

AN ACT for the Cutting and Makeing a Path out from the Road on the North side of Ashley River to the towne of Wilton, in Colleton County, and appointing Ferries on the said Road.

No. 218.

(Ratified December 23, 1703. *See last volume.*)

AN ADDITIONALL ACT to an Act entituled An Act to prevent the Seas further Encroachment upon the Wharfe at Charlestowne, and for the repairing and building more Batterys and Flankers on the said wall to be built upon the said Wharfe; and also for the Fortifying the remaining parts of Charlestown by Intrenchments, Flankers and Pallisadoes, and appointing a Garrison to the Southward.

No. 219.

(Ratified December 23, 1703. *See last volume.*)

AN Additional ACT TO AN ACT ENTITULED AN ACT FOR RAISING THE SUME OF FOUR THOUSAND POUNDS ON THE REALL AND PERSONAL ESTATES, &c., RATIFIED IN OPEN ASSEMBLY, THE EIGHTH DAY OF MAY, 1703.

No. 220.

WHEREAS, Dr. James Williams, one of the commissioners of enquiry in the Act for Raiseing the Sume of Four Thousand Pounds on the Reall and Personal Estates, and of and from the Profitts and Revenues of the Inhabitants of this Province, and Establishing of Bills of Credit for Satisfying of Debts due by the Publick, on account of the late Expedition against St. Augustin, Ratified in open Assembly the eighth day of May, seventeen hundred and three, hath not (by reason of sickness) returned an account of the estates of such persons, within his division, to the assessors in Charlestowne, at the time appointed in the said Act, so that the assessors could not complete the said assessment and returne the same as required by the said Act; therefore, for the prevention of all future disputes, and that the longer time may be given to the said Williams to make his return, and the Assessors to complete the said assessment,

I. *Be it enacted* by His Excellency John Granville, Esq., Pallatine, and the rest of the true and absolute Lords and Proprietors of the Province of Carolina, by and with the advice and consent of the rest of the members of the Generall Assembly, now met at Charlestowne, for the south-west part of this Province, *And it is enacted* by the authority of the same, That the sume of four thousand pounds to be raised and to be paid at two payments, by the aforesaid Act, shall be paid on the ninth day of March next, any thing in the said Act contained to the contrary notwithstanding. And when the said sume of four thousand pounds shall be due, as it cometh to be paid into the Receiver's hands, he, the said Receiver is hereby impowered and commanded to call in and cancell three thousand pounds of the said bills made currant by the forerecited Act, and the other thousand pounds of the said bills are hereby made currant, with the interest of twelve per cent., and shall be deemed and esteemed a good payment and tender in law for and during the time until the said bills shall be called in and cancelled by an order of the Assembly, any limitation in

The sum of £4000 to be paid on the 9th of March next.

A. D. 1708.

Commissioners
appointed.

the said Act for raising four thousand pounds contained to the contrary notwithstanding, (excepted always in payment of such debts as are excepted by the said Act.)

II. *And be it further enacted* by the authority aforesaid, That Dr. James Williams and Mr. James Gilbertson, or either of them, are hereby nominated and appointed Commissioners to enquire and make an account of the estates, goods, merchandizes, stocks, abilities, offices and places of profitts of all and every of their neighbors within that division of Wadmalaw, and an account thereof shall make in such manner and forme as the Commissioners of Enquiry in the Act for raising four thousand pounds are commanded and required to performe, and the same so made in writing under their hands, or either of them, shall on his or their oaths, on the fourth day of January next, returne and give in Charlestowne at the House of Captain John Collins, to the Assessors nominated in the said Act.

Assessors
when to meet.

III. *And be it also enacted* by the authority aforesaid, That John Ashbey, James Witter, James Ingerson, Peter St. Julian, Lewis Pasquereau, Robert Fenwick, Captain Thomas Nairne, Captain Christopher Wilkinson and Rene Ravenell, Assessors, by virtue of the aforesaid Act for raising four thousand pounds, shall and are hereby commanded (or any five of them) to meet at Charlestowne at the house of the said Collins, on the said fourth day of January next, and then and there to sit de die in diem till they have assessed the said sume of four thousand pounds, which said assessment so to be made shall be performed and returned in such manner and forme as in the said Act for raising four thousand pounds is ordained and appointed; and that the said Assessors may with all expedition perfect the said assessment, they are hereby impowered to have one or more Clerks as they shall think fit in completing the said assessment, and him or them to pay and satisfy out of the publick treasury, by an order under their hands to the publick Receiver, who shall pay the same.

Publick
Receiver to
give a list of
persons taxed.

IV. *And be it further enacted* by the authority aforesaid, That the publick Receiver shall by himself, or deputys, some time before the eighth day of February next, give to every Captain of the militia, a list of every person's tax in his division, in such manner and forme as in the Act for raising four thousand pounds is ordained and appointed.

An appeal
allowed.

V. *And be it also enacted* by the authority aforesaid, That every person that is over rated, may within twenty days before the day of payment, make his appeal to the Commissioner of Appeals appointed in the Act for raising four thousand pounds; and every Commissioner of Appeal, every Justice of the Peace, every Constable, every Commissioner of Enquiry, every Assessor, and the publick Receiver, shall proceed in such manner and forme in each their respective duties, in assessing and collecting the said sume of four thousand pounds, and shall be under such fines and forfeitures for the neglect thereof, and for such uses, to be recovered in such manner and forme, as in the said Act is ordained and appointed.

The £4000
to be paid to
the Receiver
in one
payment.

VI. *Whereas*, the Assessors in the Act for raising four thousand pounds, have not completed the assessment, so that the moneys to be raised thereby cannot be paid into the Receiver's hands at the time appointed in the said Act, therefore, for the prevention of all future disputes and controversies that may arise concerning the same, *It is hereby enacted and declared*, That the four thousand pounds to be raised by the aforesaid Act shall be paid to the Receiver in one payment, as by this Act is appointed, any default of any Commissioners of Enquiry, or Assessors, or misconstruction whatsoever committed by them or contained therein to the contrary notwithstanding.

VII. *Whereas*, Dr. James Williams, one of the Commissioners of Enquiry, hath not returned the same as by the Act for raising four thousand

pounds is required, by which he hath forfeited the sume of twenty pounds, *Be it therefore enacted*, That the said sume is hereby remitted and discharged, any thing in the said Act contained to the contrary notwithstanding. A. D. 1703.

VIII. *And it is enacted* by the authority aforesaid, That if the Commissioners of Enquiry, or Assessors, or any of them, shall neglect or refuse to performe their respective duties as required by this Act, he or they so neglecting or refusing, shall forfeit the sume of twenty pounds each, to be recovered in such manner and forme, and for such uses, as fines and forfeitures in the like case in the Act for raising four thousand pounds is ordained and appointed. Officers neglecting their duty.

IX. *Whereas*, by an Act entituled an Act for Raising the Sume of Two Thousand Pounds of and from the Reall and Personal Estates, and of Persons not assessed. and from the Profitts and Revenues of the Inhabitants of this Province, Ratified in open Assembly the tenth day of September, seventeen hundred and two, is therein amongst other things enacted and declared, that the sume of two thousand pounds shall be equally and indifferently raised upon the estates of all and singular the inhabitants of this part of this Province; and forasmuch as several of the inhabitants of this Province through the neglect of the Assessors, in the said Act, were not assessed their quota towards the payment of the said two thousand pounds, *Be it therefore enacted* by the authority aforesaid, That every person inhabiting in this Province at the time of the said assessment, who at all was not assessed, but wholly omitted, every such person so not assessed, shall pay one halfe part more over and above the assessment of the four thousand pounds, and such halfe part shall be recovered in such manner and forme, and for such uses as his or their dividend in the said Act for raising four thousand pounds is ordained and appointed; and that such as were not assessed as aforesaid, in the Act for raising the two thousand pounds, may be assessed the moiety as by this Act appointed, the Assessors are hereby impowered, under the penalty of ten pounds, to order the publick Receiver, who is hereby, under the penalty of ten pounds, to obey the same, to lay before them the list of all such persons as were taxed by virtue of the said Act, and that assessment to compare with the assessment of the four thousand pounds, and all such persons as they shall find not assessed, which by the said Act for raising two thousand pounds ought to have been assessed by virtue of the said Act, the Assessors are hereby impowered and commanded to add one halfe part more than the assessment of the four thousand pounds, to the account of such persons as were not assessed in the Act for raising the two thousand pounds, and returne the same in the assessment accordingly. Penalties.

X. *And be it further enacted* by the authority aforesaid, that every person which shall have reason to believe he is over rated in the moiety or one halfe part of the tax arising by virtue of this Act, shall and may appeale in such manner and forme as others over rated by vertue of the Act for raising four thousand pounds, and the Commissioners of Appeals are hereby commanded to hear and determine the same accordingly, as in the like case in the said Act is ordained and appointed. Persons rated may appeal.

XI. *And whereas*, several of the Commissioners of Inquiry appointed in the said Act for raising four thousand pounds have in their accounts returned the crop of persons living within their division, contrary to the true intent and meaning of the said Act; *Be it therefore enacted and declared* by the authority aforesaid, That the Assessors appointed by this Act, or any five of them, are hereby commanded and impowered to rase out of all and every the accounts, the articles of crops that are or shall be returned to them in the account by the Commissioners by the said Act or this Act The article of crops to be erased out of the Accounts.

A. D. 1703.

appointed, and shall proceed to complete the said assessment accordingly, any misconstruction in the word abilities therein inserted, or any thing therein contained to the contrary notwithstanding.

*Read three times, and ratified in open Assembly, the
three and twentieth day of December, 1703.*

N. JOHNSON,
THO. BROUGHTON,
NICHOLAS TROTT,
ROBERT GIBBES,
HENRY NOBLE.

NOTE—See Act No. 205. Obsolete and expired.

No. 221. AN ACT for the Better Regulateing the Watch in Charlestown.
(Ratified December 23, 1703. See last volume.)

No. 222. AN ACT FOR THE MORE EFFECTUAL PRESERVATION OF THE GOVERNMENT OF THIS PROVINCE, BY REQUIRING ALL PERSONS THAT SHALL HEREAFTER BE CHOSEN MEMBERS OF THE COMMONS HOUSE OF ASSEMBLY, AND SIT IN THE SAME, TO TAKE THE OATHS AND SUBSCRIBE THE DECLARATION APPOINTED BY THIS ACT, AND TO CONFORME TO THE RELIGIOUS WORSHIP IN THIS PROVINCE ACCORDING TO THE CHURCH OF ENGLAND, AND TO RECEIVE THE SACRAMENT OF THE LORD'S SUPPER ACCORDING TO THE RITES AND USAGE OF THE SAID CHURCH.

Preamble.

AS nothing is more contrary to the profession of the Christian Religion, and particularly to the doctrine of the Church of England, than persecution for conscience only; nevertheless, whereas it hath been found by experience that the admitting of persons of different persuasions and interest in matters of religion to sitt and vote in the Commons House of Assembly, hath often caused great contentions and animosities in this Province, and hath very much obstructed the publick business; and whereas by the laws and usage of England, all members of Parliament are obliged to conforme to the Church of England, by receiving the sacrament of the Lord's Supper accornidg to the rites of the said church;

Be it therefore enacted by His Excellency John Lord Granville, Pallatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the Members of the Generall Assembly now met at Charlestown for the South-west part of this Province, and by the authority of the same, That every person that after the ratification of this Act shall be choosen a Member of the Commons House of Assembly, that hath not within the space of twelve months before such his election received the Sacrament of the Lord's Supper according to the rites and usage of the Church of England as established by law, such person after his election, and before he be permitted to sitt and vote in the said House, shall receive the Sacrament of the Lord's Supper, according to the rites and usage of the Church of England, in some publick church, upon some Lord's day, commonly called Sunday, immediately after divine

Members of
Assembly to
receive the
Sacrament.

service and sermon; and every of the said persons, in open Assembly, in a full house, duly sitting, with their Speaker in his chair, shall deliver a certificate of such his receiving of the said sacrament as aforesaid, under the hand of the respective minister, or shall make proof of the truth thereof by two credible witnesses at least, upon oath.

A.D. 1704

II. *But whereas*, some persons scruple the receiving the Sacrament of the Lord's Supper, by reason they fear they are not rightly fitted and prepared to partake of that ordinance, who do nevertheless out of real choice conform to the Church of England as established by law, and do sincerely profess the same, and do not abstain from the Sacrament of the Lord's Supper out of any dislike to the manner and forme of the administration thereof as used by the Church of England and prescribed in the communion office in the book of common prayer of the said church: *Be it therefore enacted* by the authority aforesaid, That every person that after the ratification of this Act shall be chosen a Member of the Commons House of Assembly in this Province, in case he hath not received the Sacrament of the Lord's Supper, according to the rites and usage of the Church of England, as is before prescribed by this Act, then every such person before he vote in the said Commons House of Assembly, or sit there during any debate in the said house, after their Speaker is chosen, shall upon his oath taken on the holy Evangelists, declare that he is of the profession of the Church of England, as established by law, and that he doth conform to the same, and usually frequent the said Church for the publick worship of God, and that he doth not abstain from the Sacrament of the Lord's Supper out of any dislike to the manner and forme of the administration thereof, as used by the said Church of England, and as it is prescribed in the communion office in the book of Common Prayer of the said Church, and that he is not, nor for one year past hath not been in communion with any Church or Congregation that doth not conform to the said Church of England, nor received the Sacrament of the Lord's Supper in such Congregation, and that as a member of this the Commons House of Assembly, he will endeavor the good and welfare of the said Church of England, as established by law; which said oath or declaration of conformity to the Church of England, shall be in the form herein set down and prescribed, that is to say:

Oath of
conformity to
be taken.

I, A. B. do solemnly and sincerely, in the presence of God, profess, testify and declare, that I am of the profession of the Church of England, as established by law, and that I do conform to the same, and usually frequent the said church for the publick worship of God; and that I do not abstain from the Sacrament of the Lord's Supper out of any dislike to the manner and forme of the administration thereof, as used by the said Church of England, and as it is prescribed in the communion office in the book of common prayer of the said church; and that I am not, nor for one year past have not been, in communion with any church or congregation that doth not conform to the said church of England, nor received the Sacrament of the Lord's Supper in such congregation; and that, as a Member of this House of Assembly, I will endeavour the good and welfare of the said Church of England, as established by law. So help me God.

Which said oath or declaration of conformity shall be solemnly and publicly made and subscribed by every member of the Commons House of Assembly (that doth not produce a certificate or other proof of his having received the Sacrament of the Lord's Supper as before prescribed by this Act) between the hours of nine in the morning and four in the afternoon, at the table in the said House, and whilst a full house is sitting

A.D. 1704.

with their Speaker in his Chair; and every such person that shall upon oath make and subscribe such declaration of conformity to the Church of England, is hereby declared to be sufficiently qualified to be a member of the Commons House of Assembly, as if he had received the Sacrament of the Lord's Supper according to the usage of the Church of England, as is above prescribed by this Act.

III. *And be it further enacted* by the authority aforesaid, That all persons that after the ratification of this Act shall be choosen members of the Generall Assembly, before they vote in the Commons House of Assembly, or sitt there during any debate in the said House of Commons after their Speaker is chosen, shall, on the Holy Evangelists, take the oaths appointed to be taken, instead of the oaths of allegiance and supremacy, by one Act of Parliament, made in the first year of the reign of the late King William and Queen Mary, entituled an Act for the abregating of the Oaths of Supremacy and Allegiance, and appointing other Oaths; and shall make and subscribe the declaration appointed to be made and subscribed in the Act made in the thirtieth year of the reign of the late King Charles the Second, entituled an Act for the more effectual Preserving the King's person and Government, by disabling Papists from sitting in either houses of Parliament; and shall also take the oath appointed to be taken by one Act of Parliament made in the first year of the reign of her present Majesty, entituled an Act to Declare the alterations in the Oath appointed to be taken by the Act entituled an Act for the further security of her Majesty's person, and the succession of the Crown in the Protestant line, and for extinguishing the hopes of the Pretended Prince of Wales, and all other Pretenders, and their open and secret abettors, and for declaring the Association to be determined. Which oaths and declaration in every succeeding Assembly shall be solemnly and publickly made and subscribed, betwixt the hours of nine in the morning and four in the afternoon, by every member of the said Assembly, at the table in the said house, and whilst a full house is sitting, with their Speaker in his chair.

Penalty

IV. *And be it further enacted* by the authority aforesaid, That if any person that shall hereafter be elected a member of the Commons House of Assembly, shall presume to sit and vote in the said Commons House after their Speaker is choosen, before he hath received the Sacrament of the Lord's Supper according to the rites and usage of the said Church of England, or upon oath made and subscribed such declaration of conformity to the Church of England as is prescribed by this Act, and hath also taken the oaths and made and subscribed the declaration as required by this Act, every person so offending shall forfeit, for the first time he shall so sit, the sum of fifty pounds currant money of this Province; and for every day after that he shall so sit, the sum of ten pounds; the one halfe to the Palatine and the rest of the true and absolute Lords and Proprietors of this Province, to be paid to the Publick Receiver of this Province, to and for the support of the government of this Province and the contingent charges thereof, to be disposed of by ordinance of the Generall Assembly; and the other half to him or them that shall sue for the same within six months after the offence committed, by action of debt, suit, bill, plaint or information, in any court of record in this Province, wherein no essoign, protection, priviledge, injunction, or wager of law or stay of prosecution, by *non vult ulterius prosequi*, or otherwise, shall be admitted or allowed.

V. *And be it further enacted* by the authority aforesaid, That in case any person shall be returned a member of the Commons House of Assembly, who shall refuse to qualify himselfe as required by this Act, and so

cannot be permitted to sitt and vote in the said house, that then and in such case it shall be lawful for those members of Assembly that are qualified to sit and vote in the said House of Assembly, to order the Sheriff of the county to lay the poll or list of the severall candidates, and the numbers of them that voted for each of the candidates, and admitt that person or persons that hath the greatest number of votes next to them members that were returned to sitt and vote as a member or members of the said Commons House of Assembly; *Provided*, they do qualify themselves as is above directed by this Act; and in case there is not a sufficient number of other candidates that are qualified as aforesaid to fill up the vacancies, that then a new writt shall be issued out for such number as is so wanting.

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In case of non-conformity the candidate next highest in number of votes to be chosen.

*Read three times, and ratified in open Assembly,
the sixth day of May, 1704.*

N. JOHNSON,
THO. BROUGHTON,
JAMES MOORE,
ROBERT GIBBES,
HENRY NOBLE,
NICHOLAS TROTT.

Repealed by Act 255 of the original Acts, being 259 of Trott.

AN ACT to make all Goods Imported and Exported in any Vessells belonging to this Port, to pay the same Duties as if Imported in Vessells not belonging to the same, to incourage Navigation: And to impower the Governour to draw Money out of the Treasury for damage done to the Town Lotts by the Intrinchments. No. 223.

(Ratified May 6, 1704. *See last volume.*)

AN ACT for the Adjournment of the General Sessions to be holden on Wednesday, the 18th of this instant October, and for the directing how the General Sessions may at any time be adjourned for the future. No. 224.

(Ratified October 18th, 1704. The original Act not now to be found. This Act is repealed by section 45 of the Jury-men Act, of August 20th, 1731.

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No. 225. *AN ACT, FOR THE ESTABLISHMENT OF RELIGIOUS WORSHIP IN THIS PROVINCE, ACCORDING TO THE CHURCH OF ENGLAND, AND FOR THE ERECTING OF CHURCHES FOR THE PUBLICK WORSHIP OF GOD, AND ALSO FOR THE MAINTENANCE OF MINISTERS AND THE BUILDING CONVENIENT HOUSES FOR THEM.*

FORASMUCH as in a well grounded Christian commonwealth matters concerning religion and the honour of God ought in the first place to be taken into consideration, and honest endeavours to attain to such good ends countenanced and encouraged, as being not only most acceptable to God, but the best way and means to obtain his mercy and a blessing upon a people and country;

Be it therefore enacted by his Excellency John Lord Granville, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, and by the authority of the same, That the Book of Common Prayer, and administration of the Sacraments, and other rites and ceremonies of the Church, according to the use of the Church of England, the Psalter or Psalms of David, and Morning and Evening Prayer therein contained, be solemnly read by all and every Minister or Reader in every Church which now is or hereafter shall be settled and by law established within this Province; and that all congregations and places for the publick worship, according to the usage of the Church of England, within this Province, for the maintenance of whose ministers and of the persons officiating therein, any certain income or revenue is, or shall by the laws of this Province be established and enjoined to be raised or paid, shall be deemed Settled and Established Churches.

II. *And whereas*, it is necessary and for the better accommodation and conveniency of the inhabitants of this Province that the same be divided into parishes, and the bounds of the several parishes ascertained, *Be it therefore enacted* by the authority aforesaid, That Charlestown, and the Neck between Cooper and Ashley rivers, as far up the Neck as the plantation of John Bird, Gent., on Cooper river, inclusive, and the plantation of Christopher Smith, Esq. on Ashley river, inclusive, is and shall be from henceforth for ever a distinct parish of itself, and be called by the name of the Parish of St. Philip's, in Charlestown.

III. *And be it further enacted* by the authority aforesaid, That the church situate in Charlestown aforesaid, and the ground thereunto adjoining, inclosed and used for a cœmetary or church yard, shall be the parish church and church-yard of St. Philip's, Charlestown; and the same is hereby enacted and declared to be for ever separated and dedicated to the service of God, and to be applied therein to the use and behalfe of the inhabitants from time to time inhabiting and to inhabit there, that are of the religion and profession of the Church of England, and conform to the same; and that there shall be a rector or minister to have care of the souls of the inhabitants of the said parish, and a perpetual succession of rectors, there to be elected, nominated and appointed, according to an Act of Assembly entituled an Act to Settle a Maintenance on a Minister of the Church of England, in Charlestown, ratified in open Assembly the eighth day of October, in the yeare of our Lord one thousand six hundred ninety and eight.

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IV. *And be it further enacted* by the authority aforesaid, That the Rector of the Parish of St. Philip's, in Charlestown, aforesaid, and his successors, Rectors of the said Parish, shall be incorporate, and shall have capacity and succession, by the name of the Rector of the Parish Church of St. Philip's, in Charlestown, and shall be hereby enabled to sue and be sued by that name, in all courts and places in this Province, and shall have the care of the souls of the inhabitants within the said parish, and have and enjoy to him and his successors forever one messuage or tenement for his habitation, excepting the room reserved for the Provincial Library, together with all the out-houses belonging to the same, together with all the land and the improvements thereupon, and the negroes and their increase, and the cattle and their increase; the which tenement and out-houses was built, and the land, negroes and cattle purchased or given for the use of the minister of the said St. Philip's, in Charlestown, and his successors, pursuant to the above recited Act of Assembly, entitled an Act to Settle a Maintenance on a Minister of the Church of England in Charlestown; and also such other revenues as is given to the minister of Charlestown and his successors by the said Act, together with all fees and perquisites arising within the said parish, that are of right due to the rector or minister thereof by the laws and customs of this Province.

V. *And be it further enacted* by the authority aforesaid, That Berkley County shall be divided into six parishes, that is to say, one in Charlestown, one upon the south-east of Wandoe river, one upon that neck of land lying on the north-west of Wandoe and south-east of Cooper river, one on the western branch of Cooper river, one upon Goose Creek, and one upon Ashley river.

VI. *And whereas*, it is necessary that six churches be built for the publick worship of God according to the Church of England, that is to say, one upon the south-east of Wandoe river, one upon that neck of land lying on the north-west of Wandoe river and south-east of Cooper river, one upon the western branch of Cooper river, one upon Goose Creek, one upon Ashley river, and one on the south side of Stonoe river, in Colleton county; the said churches to be built in such place or places on the precincts above named, as shall be agreed on by the majority of the commissioners hereafter named, by and with the advice and consent of the major part of the inhabitants who are of the profession of the Church of England; *Be it therefore enacted* by the authority aforesaid, That the commissioners hereafter named shall have power to take up by grant from the Lords Proprietors, or purchase the same from them or any other person, and have, take and receive so much land as they shall thinke necessary for the severall scites of the severall churches and the cœmetarys or church-yards for the burial of christian people there, in the severall places above mentioned; and shall also direct and appoint the building of the severall churches, according to such dimensions and of such materials as they shall thinke fitting, and also the pulpit, desk and pews, in the severall churches, and also the inclosing the severall cœmetarys or church-yards.

VII. *And whereas*, it is necessary that there be six severall messuages or tenements built, and six severall parcels of land allotted for a glebe for each of the six rectors or ministers of the said parishes or divisions; *Be it therefore enacted* by the authority aforesaid, That the commissioners hereafter named shall have power to take up by grant from the Lords Proprietors, or purchase, have, take and receive the same from them or any other person, so much land as they shall think fitt for the severall glebes, and in such places as they shall think convenient; and upon each

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of the said glebes shall order and appoint the building of one messuage or tenement for a dwelling-house for the rector or minister, together with convenient out-houses, according to such dimensions and of such materials as they shall think fitting.

VIII. And in order to defray the charges of the severall tracts of land and the building the said severall churches, and inclosing the said severall cœmetarys or church-yards, and the severall tracts of lands for glebes, and the building the severall messuages or tenements and convenient out-houses on the same, *Be it enacted*, That the commissioners hereafter named, or the major part of them, shall be enabled to have, take and receive all such sume or sumes of money as any charitable and well disposed christians shall freely and voluntarily give towards the building all or any of the said churches and inclosing all or any of the said cœmetarys or church-yards; and shall also have power to nominate and appoint one or more persons, inhabitants of the parishes in the severall places where the severall churches are to be built, to be supervisors for the building of the said severall churches and the inclosing the severall cœmetarys or church-yards and the severall buildings that are to be upon the severall glebes; and the said severall supervisors shall make an estimate of the charges of the building the severall churches, and inclosing the severall church-yards, and the severall dwelling-houses and out-houses that are to be built on the said severall glebes, and give the same in writing under their severall hands to the commissioners. And such sume or sumes of money as shall appear to them, the said commissioners, to be in their judgements competent to accomplish the building of the said severall churches, and inclosing the said severall cœmetarys or church-yards, and the severall buildings that are to be upon the severall glebes, over and above what hath been freely contributed towards them, shall be paid out of the publick treasury by an order under the hands of the commissioners hereafter named, or the major part of them.

IX. *And be it further enacted* by the authority aforesaid, That the severall supervisors for the building the severall churches, houses, and other works required by this Act, shall have full power to press bricks or lime, or any other materials, and shall have power to compel bricklayers, carpenters, joiners and all other workmen and labourers, to worke on the said workes, as fully and amply to all intents and purposes, and under the same penaltys upon the neglecters and offenders, and the recovering the penaltys imposed, as is given to Lieut. Colonel William Rhett, for the building the front wall and other the intrenchments and fortifications about Charlestown, by one Act of Assembly entituled an Additional Act to an Act entituled an Act to prevent the Sea's further Encroachment upon the Wharfe at Charlestown, and for the repairing and building more batterys and flankers on the said wall to be built on the said Wharfe, and also for the fortifying the remaining parts of Charlestown, by intrenchments, flankers and pallisadoes, and appointing a Garrison to the Southward; and that as fully and amply to all intents, as if the severall clauses in the said Act or any of them contained were herein repeated at large and particularly recited and set down in the body of this Act and re-enacted herein; the penalties so recovered to be paid to the commissioners hereafter named, or whom they or the major part of them shall appoint, and to be disposed of towards the defraying the charges of the severall buildings required by this Act.

X. *And be it further enacted*, That the supervisors of the severall churches, houses and works required in this Act, shall have power to press any slave or slaves from any person inhabiting within his respective parish

and division, to be employed upon the aforesaid work and building, allowing two royalls a day for every such slave to be employed as aforesaid.

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XI. *And be it further enacted* by the authority aforesaid, That the commissioners hereafter named, or the major part of them, shall and hereby are authorized and impowered by an order under their hands to draw out of the publick treasury such sume or sumes of money as shall by them or the major part of them be estimated a convenient salary to their clerk, and to him to be continued untill all the churches and houses and all other the buildings mentioned in this Act shall be finished, and to make him convenient allowance for pen, ink, paper and other necessary expences, to be made in and about the execution of this Act.

XII. And for the encouragement of faithfull and able ministers labouring in the work of the Gospell, to come and reside in this Province, *Be it enacted* by the authority aforesaid, That the severall rectors or ministers of the severall parishes shall be incorporate, and each of them shall have capacity and succession by the name of the Rector of that parish of which he is minister, and shall be hereby enabled to sue and be sued by that name in all courts or places in this Province, and shall have the care of the souls of the inhabitants within the parish committed to his charge, and shall have and enjoy to him and his successors for ever the glebe lands obtained and appointed pursuant to this Act, and the messuage or tenement for his habitation, together with all the out-houses and buildings intended to be erected on part of the said glebe land; and all such negroes as shall be given and allotted to the severall parishes by the Society founded by royal charter in the kingdom of England, by the name of the Society for the Propagation of the Gospell in Foreign Parts, or by any other charitably disposed persons; and also shall have and receive from the Publick Receiver for the time being, who is hereby required to pay the same, the sume of fifty pounds per annum, currant money of this Province, to be paid him halfe yearly.

XIII. And if it shall happen that for any urgent and necessitous reasons all the money in the publick treasury should be disposed of for other uses, so as that there should not be left sufficient in the receiver's hands to pay the said severall fifty pounds at the times before appointed, then the commissioners hereafter named, or the major part of them, shall order the Receiver to pay the same as soon and as often as any publick moneys shall come into his hands; but if the commissioners, or the major part of them, shall have reason to believe that money will not come into the Receiver's hands in such time as they shall think the same ought to be paid in, *Be it enacted*, that in such case the commissioners hereafter named, or the major part of them, shall have power and they are hereby impowered to assess and levey the said sume of fifty pounds for each and every the rector or minister in every parish or division, in such manner and forme as the commissioners appointed in an Act to Settle a Maintenance on a Minister of the Church of England in Charlestown, ratified in open Assembly the eighth day of October, one thousand six hundred ninety-eight, are impowered to do in case they have reason to believe that moneys will not come into the Receiver's hands in such time as the same ought to be paid in.

XIV. *And be it further enacted* by the authority aforesaid, That the severall rectors or ministers of the severall parishes shall be choosen by the major part of the inhabitants of the said parish, that are of the religion of the Church of England and conform to the same, and are either freeholders within the same parish, or that contribute to the publick taxes and charges thereof, or such of them as shall think fit to attend and repair to the respective parish churches, upon a meeting appointed by the commis-

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tioners hereafter named, or the major part thereof, of which public notice shall be given at least ten days before the time of such meeting, appointed as aforesaid.

XV. *And whereas*, it may often happen that a rector or minister may be chosen pursuant to this Act, and also to one other Act of Assembly, entitled an Act to settle a maintenance on a minister of the Church of England in Charlestown, of whose qualifications or dispositions the inhabitants may have but small acquaintance, or may be otherwise mistaken in the person, who may act contrary to what was expected of him at his election, so that it is highly necessary to have a power lodged in some persons for the removing all or any of the several rectors or ministers of the several parishes, or to translate them from one parish to another, as to them shall seem convenient; otherwise, in case any immoral or imprudent clergyman should happen to be appointed rector or minister of any parish, the people would be without any remedy against him; or in case there should arise such incurable prejudices, dissensions, animosities and implacable offences between such rector or minister and his people, that all reverence for, and benefit by his ministry is utterly to be despaired of, (although he is not guilty of more grosser and scandalous crimes) yet it may be very convenient to have him removed from being rector or minister of that parish to which he did belong, and where such dissensions and offences are arisen, otherwise great evils and inconveniences may ensue upon the same; for the prevention of which evils and inconveniences, *Be it enacted* by the authority aforesaid, That the Commissioners hereafter named, or the major part of them, shall have power, when they think it convenient (upon the request and at the desire of any time of the parishioners that do conforme to, and are of the religion of the Church of England, and are persons of credit and reputation, together with the request of the major part of the vestry of the parish, signified under their hand and requesting the removal of the rector or minister of such parish) to cite such minister before them, and to hear the complaints against such rector or minister, allowing him reasonable time to make his defence, and upon a hearing of the same, if the said Commissioners, or the major part of them, shall think it convenient to remove such rector or minister, they are hereby authorized and impowered to do the same, whether it be the rector or minister of Charlestown, or any other parish, and that is already elected and appointed, or that shall be elected and appointed rector or minister of any parish or parishes within this Province; and in case the said Commissioners, or the major part of them, shall by writing under their several hands and seals, delivered to such rector or minister, or left at his usual place of abode, or house appointed or to be appointed for such rector or minister for his habitation, or by fixing the same on the church doors, signify that such rector or minister shall cease to be rector or minister of that parish, and that he be removed from the same; then and in such case, such person shall cease to be rector or minister of the said parish, and shall cease to have any use, possession, or benefit or advantage of the church, or of any lands, messuages or tenements, or any negroes, or any revenues, fees, profits, perquisites, priviledges, benefits or advantages whatsoever, belonging to the rector or minister of that parish, as fully and amply to all intents and purposes as if he had never been chosen rector or minister thereof; and upon such removal of any rector or minister of any parish, the parishioners may proceed to a new choice, according as it is directed by this Act, in case of the death of a minister.

XVI. *And be it further enacted* by the authority aforesaid, That the Right Honorable Sir Nathaniel Johnson, Knight, the Honorable Thomas

Broughton, Esq., Col. James Moore, Nicholas Trott, Esq., Colonel Robert Gibbes, Job Howes, Esq., Ralph Izard, Esq., Colonel James Risbee, Colonel George Logan, Lieutenant Colonel William Rhett, William Smith, Esq., Mr. John Stroud, Mr. Thomas Hubbard, Richard Beresford, Esq., Mr. Robert Seabrook, Mr. Hugh Hicks, John Ashby, Esq., Captain John Godfrey, James Serurier als. Smith, Esq., and Mr. Thomas Barton, or the major part of them, who shall meet upon publick summons, as is directed by this Act, *Provided*, the persons that meet are not less than eleven, be and are hereby nominated and appointed to be the Commissioners mentioned in this Act, and to exercise all the authorities and powers given them as Commissioners by this Act in the several parts thereof; and in case of the death or absence of any of the said Commissioners, the remaining Commissioners, or so many of them as will meet, (provided they exceed the number of ten) being summoned at least six days before, may meet at some convenient place appointed for that purpose, and that such Commissioners as shall so meet upon such summons, or the major part of them, shall and may choose a person or persons of the profession of the Church of England, to be Commissioner or Commissioners in the room or place of such person or persons dead or gone off, as to them shall seem meet, which persons so chosen shall and are hereby declared to be Commissioners for this Act, as fully and amply as if they had by name been mentioned in this Act.

XVII. *And be it further enacted* by the authority aforesaid, That the Commissioners for this Act shall meet to transact the business of this Act twice in the year, that is to say, on the second Tuesday in January, and on the second Tuesday in July, at the Church in Charlestown, without any notice or warning to be given thereof, and oftener, if occasion shall require it, upon publick notice thereof, or summons signed by the Governour, six days before such meeting, appointing a convenient time and place, or in case the Governour shall refuse to issue out such summons upon the application of any three of the Commissioners to him for the same, that then it may be lawfull for the said three Commissioners, or any other three of the Commissioners of this Act, to issue out their summons, appointing the time and place of the meeting of the Commissioners, and so many of them as shall meet by virtue of such summons, provided there are not less than eleven, and the majority of them eleven consenting, may put in force and execution any of the powers granted to the Commissioners by this Act.

XVIII. And to prevent all illegal and unlawful marriages, not allowed by the Church of England, but forbidden by the table of marriage, *Be it enacted* by the authority aforesaid, That no minister shall presume to join together in marriage any persons whatsoever, contrary to the table of marriages by this Act appointed to be set up in every parish church within this Province, under the penalty of one hundred pounds; nor shall any persons forbidden to intermarry by such table of marriage, presume to be joined in marriage, under the penalty of fifty pounds, or twelve months' imprisonment.

XIX. *And be it likewise enacted* by the authority aforesaid, That no Justice or Magistrate being a lay-man, shall presume to joyn any persons in marriage, under the penalty of the above mentioned penalties, to be recovered and disposed of as hereafter in this Act is directed.

XX. And the better to promote the execution of the good laws of this Province, so far as concerns the respective parishes, and for the more easy dispatch of parish business, *Be it further enacted* by the authority aforesaid, That there be vestries in each parish of this Province, and in every parish where any rector, minister or incumbent is or shall be lawfully, according

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to the laws and usages of this Province, appointed and in possession of any living and residing therein, he shall, during the continuance aforesaid, and no longer, be one of the vestry of each parish.

XXI. *And be it further enacted* by the authority aforesaid, That there shall be nine more vestry men in each parish, who shall be inhabitants in each respective parish for which they are chosen, and shall conforme to and be of the religion of the Church of England, and shall be chosen by the inhabitants of each parish as hereafter in this Act is directed.

XXII. *And be it further enacted* by the authority aforesaid, That on Easter Monday, which shall be in the year of our Lord one thousand seven hundred and six, the inhabitants of each parish that are of the religion of the Church of England, and that do conforme to the same, and that are either freeholders within the same parish, or that contribute to the publick taxes and charges thereof, or so many of them as shall think fit to attend, shall meet at their parish church, or for want of a parish church, at such place as the Commissioners above named in this Act, or the major part of them that shall meet upon publick summons, shall appoint, and shall there elect nine sober and discreet persons, inhabitants of the parish, that are of the religion of the Church of England and do conforme to the same, and that are either freeholders within the same parish, or that do contribute to the publick taxes and charges thereof, to be vestry men for the said parish, which said nine so choosen, shall continue to be vestry men for the parish for the space of one year; and so on the said Easter Monday, yearly, the inhabitants of each parish, qualified as aforesaid, shall choose nine persons, qualified also as aforesaid, to be vestrymen for that parish for which they are elected; and in case of the death or resignation, or other legal discharge of any of the nine of the vestry men of any of the parishes choosen as aforesaid, the remaining part of such vestrys shall with all convenient speed summons and appoint a general meeting of all the inhabitants of the said parish, who are of the religion of the Church of England and conforme to the same, and that are either freeholders within the same parish, and that do contribute to the publick taxes and charges thereof, who shall by majority of voices choose one or more sober and discreet person or persons that are also inhabitants of the said parish, and of the religion of the Church of England and conforme to the same, and that are either freeholders within the said parish, and that do contribute to the publick taxes and charges thereof, to supply such vacancies.

XXIII. *And be it further enacted* by the authority aforesaid, That all such persons that shall be so elected and choosen, shall take the usual oaths appointed by Act of Parliament instead of the Oaths of Allegiance and Supremacy, and likewise subscribe the test, and shall also take the following oath, viz : I, A. B. do solemnly swear and declare, that I will justly and truly execute the trust or office of a vestry-man of this parish, according to my best skill, knowledge and power, without prejudice, favour or affection; which said oaths at the election of any vestry-men as aforesaid, are to be administered by any Justice of the Peace of the county where such vestry is, who is hereby required and impowered to administer the same, and every person being so elected and choosen a vestry-man as before by this Act directed, having taken the oaths and subscribed the test as required by this Act, and not before, shall be deemed and taken as one of the vestry to all intents and purposes.

XXIV. And for keeping a fair register of all such vestry's proceedings, and for registering of all births, christenings, marriages and burials in each respective parish, *Be it enacted* by the authority aforesaid, That each vestry shall and is hereby obliged to provide a fit person for a Register, who shall

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at all times keep a true and fair registry of the several proceedings of such vestry from time to time, in executing their trust and authority, and make just and true entries thereof; which persons so to be appointed for keeping such registry, shall take the oaths appointed by Act of Parliament, instead of the oaths of Allegiance and Supremacy, and subscribe the test, and also an oath for the due and faithful execution of his office; which said oaths shall be taken before the said vestry, who are hereby impowered and required to administer the same accordingly, and having so done, and not before, the said Register shall then be admitted in the said office, and shall make true entry of all vestry proceedings, and of all births, christenings, marriages and burials, (negroes, mollatoes and Indian slaves excepted) that is to say, the christian and surname, with the day and month and year of every such births, christenings, marriages and burials; to which purpose all and every the inhabitants of each parish that are either parents, guardians, overseers, masters, mistresses, or executors or administrators of any persons born, christened, married or buried within this Province, except such before excepted, are hereby enjoined and required to give notice to the Register of such parish within two months after such birth, christening, marriage and burial, and pay him one royal for entering it at the time of giving notice aforesaid, under the penalty of five shillings, to be forfeited by such inhabitant aforesaid, refusing or neglecting as aforesaid, and under the penalty of five shillings to be forfeited by such Register refusing or neglecting to enter it, having received his fee for the same; and such Register is hereby obliged to shew any person or persons reasonably desiring it, any such register, or give a certificate of any register of any births, christenings, marriages or burials that shall be reasonably required of him, and shall have for his fees from such persons, one royall for any search, and two royalls for any copy or certificate given as aforesaid, and no more, hereby ratifying and confirming as valid all registries or entries of any births, christenings, marriages or burials heretofore made in this Province by any person lawfully authorized, commissioned or impowered to do the same by any law or custom in this Province, before the making of this Act.

XXV. And that the Register of each parish may be enabled to perform the charge hereby required of him, *Be it enacted* by the authority aforesaid, that the church wardens of each parish, within twelve months after the ratification of this Act, shall at the parish charge, provide good and substantial writing-books, well bound, sufficient for registering such proceedings in, according to the directions of this Act, under the penalty of five pounds for each church warden's neglecting the same.

XXVI. *And be it further enacted* by the authority aforesaid, That the respective vestries of each parish, with all convenient speed, and within twelve months at the most, shall procure a fair table of marriages, transcribed and set up in their respective churches, and the same keep continually in the said church, that persons being thereby informed what marriages are forbidden, may avoid the contracting of any such unlawful marriages.

XXVII. *And be it further enacted* by the authority aforesaid, That on Easter Monday, in the year one thousand seven hundred and six, the inhabitants of each parish that are qualified by this Act to choose vestrymen, shall meet at their parish church, or for want of a parish church, at such place as the Commissioners above named in this Act, or the major part of them that shall meet upon publick summons, shall appoint, and shall there make choice of and appoint two sober and discreet persons, inhabitants of the parish, that are of the religion of the Church of England, and do conforme to the same, and that are either freeholders within the same

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parish, or that do contribute to the publick taxes and charges thereof, to be church wardens for that year, which church wardens so choosen, shall take the usual oaths appointed by Act of Parliament, instead of the oaths of Allegiance and Supremacy, and likewise subscribe the test, and likewise declare on his oath, to be administered unto him by the vestry, to whom power is hereby given to administer the same accordingly, well and faithfully to execute the office for the ensuing year, according to the laws and usages of the said Province, to the best of his skill and power, and until he shall be thereof duly discharged; and any such person or persons so choosen church warden or wardens, and that shall wilfully refuse to serve in the said office, and take the oaths aforesaid, shall forfeit the sum of ten pounds, to be recovered as hereafter by this Act is directed.

XXVIII. *And be it further enacted* by the authority aforesaid, That the clerk of each parish church, and the sexton, shall be choosen by the major part of the vestry of each parish, which said clerk and sexton shall continue in their said offices during their lives, if they shall so long inhabit in the parish, excepting the vestry for the time being shall think fitting to remove either of them, which they are hereby impowered to do, and upon such removal, the said vestry, or the major part of them, may appoint another in the room of the person so removed.

XXIX. *And be it further enacted* by the authority aforesaid, That the church wardens of each parish for the time being, shall and are hereby required from time to time, to pay yearly, at the charge of the parish, any sum not exceeding ten pounds, currant moneys of this Province, to the clerk of each parish to be appointed as aforesaid, and any sum not exceeding five pounds, like currant moneys, to the sexton of each parish.

XXX. And that there may be no neglect in the several vestrys, or those employed under them, in the lawful and conscionable performance of their several charges, and also for the preventing of delays and other inconveniences, which might happen, if there were a necessity for the expecting the attendance and presence of all the said vestry-men, and at the same time to prevent the doing any thing of consequence by surprize, by a small number of them, *Be it hereby enacted* by the authority aforesaid, That the first Tuesday in January, in April, in July and in October, shall be and is hereby fixed and ascertained for the holding of a vestry at eleven of the clock in the forenoon, in the usual place for that purpose, without any notice or warning to be given thereof, at which time and place the major part of the vestry-men then present (so as such majority be not under the number of five persons) shall be esteemed as a vestry, and shall have full power to order, direct and act in all things by this Act appointed to be done, according to this Act, as a vestry; and the said several vestrys are not only obliged to meet once in every the said months as before by this Act is directed, but also as often as need shall require, upon publick notice given either by the rector or the minister of each parish, or by any three of the vestry-men of the parish, to consult of the methods and ways of performing the severall authoritys reposed in them, and from which vestry so appointed, no vestry-man, being personally summoned, shall without a reasonable and lawful excuse, absent himselfe, under the penalty of such fine or mulct, as the residue of the said vestry meeting shall lay upon him, so as the same never exceed ten shillings; and that in case any vestry-man shall remove or withdraw himselfe from the parish, or voluntarily frequently neglect to give his attendance and absent himselfe from the vestry, or otherwise become unfit or incapable to continue to execute such office or trust, that in any such case the residue of the said vestry, or the majority of them, (so as such majority be not under five persons) shall and may have

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power (after personal notice given to such party, if it conveniently may be, or the affixing of a publick notice upon the great door of the church, for three several Sundays successively, if personal notice cannot be given without great difficulty, charge, or delay, of their intentions to proceed in such manner) to remove such person from being a vestry-man, and to declare his office void, and to summon a meeting of the parishioners, qualified as is above directed, for the electing of another in the place of such person, who shall (after allowing a reasonable time to such person to make his complaint, if he apprehends himself injured, not exceeding a fortnight) proceed to a new election accordingly.

XXXI. *And be it further enacted* by the authority aforesaid, That the church wardens and vestry of each parish be authorized and required to take constant care to satisfy and pay the parochial charges, and all necessary repairs and amendments of their respective churches, chappels, or church-yards, and cause the same at all times to be repaired and amended, as need shall require, out of such gifts, goods or chattels as shall come to their hands for the church or parish's use, and also out of such fines, forfeitures and mulcts by this law incurred and afterwards by the same given to the church wardens, to be applied to the said uses. And in case they shall not have sufficient effects to pay parochial charges, as aforesaid, or to make such necessary repairs as are required, then, and not otherwise, it shall be lawfull for the respective vestry of each parish to order three sober and discreet persons to assess such sune as shall be necessary to repay the parish charges aforesaid, (provided the same exceed not one hundred pounds,) by an equall assessment of the estate, real and personal, of all and every the inhabitants, owners and occupiers of lands, tenements and hereditaments, or any personal estate, within the severall parishes; which assessment being returned to the said vestry upon oath, who are hereby impowered to administer an oath accordingly, and being by them approved in open vestry, it shall then be lawfull for any Justice of the Peace of the county, by a warrant under his hand and seal directed to any of the constables of the severall parishes, to levey the sune assessed upon each person, by distress and sale of such person's goods, as shall refuse the same, returning the overplus after reasonable charges deducted, and for want of such sufficient distress, to commit the person to prison till payment be made.

XXXII. And that there may not be any oppression or misapplication of the publick revenue of such vestries, or just cause of complaint against them in any of their proceedings, without redress, *Be it enacted* by the authority aforesaid, That all and every parishioner and parishioners whatsoever, who contribute to the publick taxes and charges of the said parish; shall and may require the Register herein before mentioned, at any reasonable and convenient time or times, to give them an inspection of the vestry books and accounts, and all and every their orders and proceedings, and shall and may take copys thereof, (paying a reasonable fee for the same, according to the length thereof, and the trouble of attendances); and that all and every person and persons whatsoever, who shall finde or apprehend him, her or themselves grieved or injured, or that the body of the said parish is injured or oppressed by any acts, orders, rules, accounts, or other proceedings of any such vestry, the parties so injured, or any others in their behalfe, or in the right of the whole body, may from time to time appeal for redress against all and every such orders, accounts and other proceedings, to the commissioners above named, which commissioners, or the major part of them, that shall meet as aforesaid upon publick summons, are hereby required and impowered to examine, hear and determine

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all and every such appeals and complaints for redress, and to give redress as they in their judgments shall thinke agreeable to justice and equity; and such their order, judgment and decree, shall be final, and bind all parties.

XXXIII. *And be it further enacted* by the authority aforesaid, That all the fines and forfeitures mentioned in this Act, and not particularly disposed of and the manner of the recovery directed, if the same do not exceed the sume of forty shillings, it shall be recovered, prosecuted, adjudged, levied and distrained by any one Justice of the Peace in this Province, as in the Act for the Tryal of Small and Mean Causes is directed, and the same being so recovered shall be paid to the church wardens of that parish where the person inhabits against whom the forfeiture is recovered, to be disposed of towards the defraying the publick charges of the said parish. And all the fines and forfeitures mentioned in this Act, exceeding the sume of forty shillings, and not particularly disposed of, and the manner of the recovery of the same not directed by this Act, all such fines and forfeitures shall be paid into the hands of the church wardens of the parish where the person inhabits against whom the forfeiture is recovered, to be disposed of towards the defraying the publick charges of the said parish, and the other halfe to him or them that will sue for the same, by action of debt, suit, bill, plaint or information, in any court of record in this Province, wherein no essoign, protection, privilege, injunction, or wager of law, or stay of prosecution, by *non vult ulterius prosequi*, or otherwise, shall be admitted or allowed.

XXXIV. *And be it further enacted* by the authority aforesaid, That if any action, plaint, suit or information shall be commenced or prosecuted against any person or persons for what he or they shall do in persuance or execution of this Act, such person or persons so sued may plead the general issue of not guilty, and upon any issue joyned, give this Act and the special matter in evidence; and if the plaintiffs or prosecutor shall become nonsuit or suffer discontinuance, or if a verdict pass against him, the defendants shall recover their treble costs, for which they shall have the like remedy as in any case where costs by law are given to the defendants.

XXXV. *Whereas*, the Hon. Sir Nathaniel Johnson, Knight, hath upon all occasions shewn his great zeal and affection to the Church of England as it is established by law, as a mark of our gratitude and respects to him, *Be it further enacted* by the authority aforesaid, That notwithstanding the powers in this Act given to the commissioners, or the major part of them, to turn out any minister as aforesaid expressed, that in case the said commissioners or the major part of them that shall meet upon publick summons as above directed, shall in persuance of such power turn out or remove such minister, that in case the said Sir Nathaniel Johnson shall at any time within six days after notice of such order of the said commissioners, or the major part of them, signify his dissent by a writeing or instrument under his hand and seal, that then such order of the said commissioners for that time to be of no force or effect; and that this power and trust reposed in the said Sir Nathaniel Johnson, shall continue durning his being Governour of this Province, and no longer.

*Read three times and ratified in open Assembly,
the fourth day of November, 1704.*

N. JOHNSON,
THO. BROUGHTON,
JAMES MOORE,

NICHOLAS TROTT,
ROBERT GIBBES,
HENRY NOBLE.

NOTE.—See Act 4th Nov. 1704, laying a duty on Skins and Furs; 18th Dec. 1708; 8th April, 1710; 7th June, 1712. All these Acts are virtually repealed by the Constitution of this State.

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AN ACT TO CONTINUE AN ACT ENTITLED AN ACT FOR LAYING AN IMPOSITION ON FURRS, &c. AND FOR APPROPRIATING THE SAME.

No. 226.

WHEREAS the fortifying of Charlestown, and other unforeseen charges for the necessary defence and safety of this Colony, hath been the occasion of so great expence of the publick money, that the bills made current by an Act of Parliament entituled an Act for Raising the Sum of Four Thousand Pounds on the reall and personall Estates and of and from the Profitts and Revenues of the Inhabitants of this Province, and establishing of Bills of Credit for satisfying the Debts due by the Publick on account of the late Expedition against St. Augustine; have not been sunck and cancelled, as by the said Act is appointed; the interest of which bills is so high, as that till the same be sunck and cancelled, it cannot be expected but that the publick will still continue and grow more in debt than now it is: That the said bills may be sunck and cancelled, and that there may be a fund of money in the publick treasury to answer all emergent and necessary occasions for the publick service and safety;

I. *Be it enacted* by his Excellency John Lord Grauville, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the Generall Assembly, now met at Charlestown for the south-west part of this Province, That an Act entituled an Act for the laying an Imposition on Furrs, Skinns, Liquors and other Goods and Merchandizes imported into and exported out of this part of the Province, for the raising of a fund of money towards the defraying the Publick charges and expences of this Province, and paying the debts due for the Expedition against St. Augustine; ratified the sixth day of May, one thousand seven hundred and three, be and continue in force; and the said Act, and every paragraph, clause, matter and thing therein contained is hereby made and declared to be and continue in force till the tenth day of May, one thousand seven hundred and seven, any thing or limitation in the said Act to the contrary contained notwithstanding.

Act of May 7,
1703, continued.

II. *And be it further enacted* by the authority aforesaid, That the duty and imposition by the before recited Act laid on Furrs and Skinns, shall be and continue in force, and the said duty is hereby made and declared to be continued in force, and shall be paid for ever to the publick Receiver, for the use herein hereafter mentioned, any thing or limitation in the before recited Act or this Act to the contrary contained notwithstanding.

III. *And be it further enacted* That four hundred and fifty pounds of the moneys which from and after the tenth day of May next shall be raised and become due by the duty and imposition on Furrs and Skinns, shall and is hereby appropriated yearly to and for the paying of salaries to the ministers of the Church of England, which are built and enacted and appointed to be built and paid by an Act entituled an Act for Establishing Religious Worship in this Province, and for no other use or service whatsoever; and the remainder of all the moneys to be raised as aforesaid, and not before specially appropriated, shall be disposed of by an ordinance of the General Assembly, for the contingent charges and necessary defence and safety of this Collony; any limitation or appropriation in any Act whatsoever to the contrary contained notwithstanding. *Provided* always, that if by the first day of December which shall be in the yeare of our Lord one thousand seven hundred and five, no ministers come into this Province to deserve the severall or any of the parishes to be erected by

Salaries to
Ministers of
the Church
of England.

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an Act entituled an Act for Establishing Religious Worship, &c., then and in such case, such part of the four hundred and fifty pounds appropriated for the salaries of the said ministers, shall be disposed of by ordinance of the Generall Assembly, untill such time as the said ministers do come and arrive in this Province, and not otherwise, any thing in this Act to the contrary in any wise notwithstanding.

To be disposed
of by the
General
Assembly.

IV. *And be it further enacted*, That all the moneys mentioned and intended to be raised and levyed by this Act, which shall be raised and levyed before the tenth day of May next, shall be disposed of but by ordinance of the Generall Assembly. *Provided, and it is hereby enacted*, that five hundred and fifty pounds of the said moneys shall be and is hereby appropriated to the cancelling and sincking of publick bills; and the publick Receiver shall sinck and cancell publick bills to the value of five hundred and fifty pounds, some time before the tenth day of May next.

Appropriation
to the building
of churches.

V. *And be it further enacted*, That two thousand pounds of the money which by this Act shall be raised after the ninth day of May next, by the impositions on all goods imported and exported, except the duty and imposition on Furrs and Skins, which before by this Act is appropriated, shall be and is hereby appropriated to be equally divided to the building of churches and convenient tenements and out-houses for the same, according to the intent and purport of an Act to Establish Publick Worship, &c. and to no other use or service whatsoever; and the remainder of all money to be raised by this Act, and not before specially appropriated, shall be disposed of by ordinance of the Generall Assembly, for the contingent charges and necessary defence and safety of this Government and Collony.

VI. *And be it further enacted*, That if the Receiver for the time being shall pay or dispose of any of the money to be raised by this Act, to any other use whatsoever, than to the uses and services in this Act appointed and appropriated, he shall forfeit triple the vallue of such money so paid and disposed of contrary to the intent and meaning of this Act, the one halfe to such person or persons as will sue for the same, by bill, plaint or information, in any court of record within this Province, wherein no essoign, protection or wager of law shall be allowed; the other half to the publick Receiver for the use of the publick.

*Read three times and ratified in open Assembly,
the fourth day of November, 1704.*

N. JOHNSON,
THO. BROUGHTON,
JAMES MOORE,
NICHOLAS TROTT,
ROBERT GIBBES,
HENRY NOBLE.

NOTE.—Confirmed and ratified by the Lords Proprietors by an instrument under their hands, dated Jan. 10, 1705. See Explanatory Act of Feb. 17, 1704-5. Expired.

A. D. 1704.

AN ACT TO REGULATE THE ELECTIONS OF THE MEMBERS OF ASSEMBLY. No. 227.

WHEREAS, of late many and troublesome complaints have been made of the undue returns of the Members of Assembly by the Sheriffs of their respective countys, which to settle and ascertain, hath taken up much of the time of the Members assembled, to the lett and hinderance of more necessary and publick business, for the future prevention whereof,

I. *Be it enacted* by His Excellency John Lord Granville, Pallatine, and the rest of the true and absolute Lords and Proprietors of the Province of Carolina, by and with the advice and consent of the rest of the Members of the Generall Assembly now met at Charlestown for the South-west part of this Province, That no person whatsoever, under the age of one and twenty years, shall have right to vote for any member of Assembly in any county or precinct whatsoever, and that no person whatsoever, which hath less than fifty acres of land in possession, or value of ten pounds in money, goods, chattels or rents, and which doth not personally reside and dwell in the county and precinct for which he doth vote for, or pretend to choose members of Assembly, by the space of three months before the dates of the writts for election, shall have right to vote for members as aforesaid. Qualification of voters.

II. *And it is further enacted*, That every Sheriff of every county, or officer of every precinct, shall have power to offer and administer an oath to every person, according to the forme of his profession, of his own quantity of lands, ability and residency, which either he suspects, or any other person then present and by this Act qualified to vote for members of Assembly, shall advise or inform him, are not according to the intent and tenour of this Act capaciated to vote and elect; and every person which shall refuse to make oath of his quantity of lands, ability in money, goods, chattels, rents or residency, notwithstanding he be otherwise well enough qualified, shall not have right to vote and elect. An oath to be tendered to voters.

III. *And it is further enacted*, That every Sheriff or other officer which shall admit of or take the vote of any person not qualified, according to the purport of this Act, or which shall make untrue return of any person for member of Assembly, shall forfeit for each such vote taken and admitted of, and for each such return, ten pounds to the Lords Proprietors, and one hundred pounds to each person which of right and by majority of votes ought to have been returned, to be recovered by any action of debt, suite, bill, plaint or information in any of the Courts of Record within this Government, wherein no essoign, protection, privilege or injunction, wager of law, or stay of prosecution, shall be admitted or allowed of. Penalty on Sheriff making false return.

IV. And for the better and more speedy determination and resolution of all objections and disputes, about or concerning elections, which at any time hereafter shall be brought before or made to the Assembly, *It is hereby enacted*, That every Sheriff or officer as aforesaid, of every respective county or precinct, shall attend the Assembly the two first days of their sitting, (unless he hath leave from them to depart) to inform them of all such matters and disputes as shall arise about elections in his county or precinct, and shall shew to the Assembly the lists of the votes for every person returned, or which otherwise ought to have been returned, and have made complaint of the false return to the Assembly, if by them from him required; and every Sheriff or other officer as aforesaid, which shall omitt or refuse to attend as aforesaid, shall forfeit to the Right Honourable the Lords Proprietors, ten pounds currant moneys, and ten pounds like currant moneys to him or them that shall sue for the same, to be recovered in such manner and forme as the forfeitures before by this Act are appointed. Sheriffs to attend the Assembly.

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V. And no Sheriff or officer as aforesaid, of any county or precinct whatsoever, shall be elected member of Assembly, or be member of Assembly, nor any other person shall be elected or returned for a member of Assembly for any county or precinct whatsoever, which by this Act is not capacitated to vote for a member of Assembly in the respective county or precinct for which he is elected and returned; *Provided*, nevertheless, and it is hereby intended, that every person which conscientiously and according to whose known profession it is not his principles or practice to make oath according to the forme of the Church of England, shall be permitted to make his solemn affirmation or declaration in the presence of Almighty God, the witness of the truth of what he sayeth, that his quantity of lands, his ability and residing is according to the tenour of this Act, any thing in this Act to the contrary contained notwithstanding.

Penalty for
untrue
declaration.

VI. And every person which by confession, or by verdict of the Jury, at the General Sessions of this Province, shall be convicted of making an untrue oath or declaration of his lands, ability and residing, shall suffer and undergo six months imprisonment, without bail or mainprize, by judgment of the said Court of General Sessions.

Voters in the
next county.

VII. *And it is further enacted*, That any person or persons not inhabiting within any county for which writts of election are issued forth, and otherwise capable to vote for members of Assembly, shall have liberty to vote for members as aforesaid, in the county or precinct next adjoining to his personal residence, any thing in this Act to the contrary, notwithstanding.

Sheriff to
publish his
precept.

VIII. *And it is further enacted* by the authority aforesaid, That the Sheriff of each county, and every officer appointed to take votes for elections in any precinct, before any election be made or voice given, shall openly read and publish his precept, under the penalty of fifty pounds, to be recovered as hereinafter mentioned; and all voices or votes given before such publication are hereby declared void and of no force, and that the electors, after the precept read, may proceed and make a new election, and alter their voices if they think fit.

Elections to be
in a publick
place.

IX. *And it is hereby further declared and enacted*, That every election for members of Assembly shall be in some open and publick place, and that no person whatsoever, here qualified to vote, shall, being absent from the place of election, give his voice or vote by proxy, letter, or any other way whatsoever, but shall be present in person, or his voice to be taken for none.

To continue
two days.

X. *And it is likewise enacted* by the authority aforesaid, That all elections in each respective county and precinct which has privilege to send members to the General Assembly, shall not continue longer than two days, and shall begin and be made between the hours of eight and twelve in the forenoon, and the hours of two and six in the afternoon of the days of election, and the poll shall be closed, and no vote admitted or received after the said hours of the said days; and that the Sheriff of every county, and officer of every precinct appointed or to be appointed to take votes, shall every day at the hours aforesaid, before he begins to take votes, make proclamation thereof, and at the hours aforesaid, of every adjournment, shall seal up in a paper bag or box all the votes given in that day, in the presence of and with the seals of two or more of each contending party, and the same shall break open the next meeting after proclamation made as aforesaid, in the presence of the parties with whose seales they were sealed up, if they will and do attend to see it done, under the penalty and forfeiture of fifty pounds for every of last before mentioned neglects and faults, to be levyed and recovered and disposed of in the same manner and

Votes how to
be taken.

to the same use as other forfeitures before by this Act are appointed. A. D. 1704.

XI. *And be it further enacted* by the authority aforesaid, That none of the true and absolute Lords and Proprietors of this Province, or their deputys, shall vote for members of Assembly of this Province. No Proprietor to vote.

XII. *And be it further enacted* by the authority aforesaid, That no alien, born out of the allegiance of the Queen of England, shall be capable of being voted for, nor be elected members of the Commons House of Assembly, any thing in an Act entituled an Act for the making aliens free of this part of the Province, &c., made and ratified the tenth day of March, sixteen hundred and ninety-six seven, or any other statute, custom, law or usage, to the contrary notwithstanding. Aliens.

XIII. *And be it further enacted* by the authority aforesaid, That an Act entituled an Act to Regulate the Election of Members of Assembly, now in force in this Province, and every clause, article, paragraph, and thing therein contained, is hereby declared null and void, and it is hereby made null and void to all intents and purposes whatsoever.

*Read three times, and ratified in open Assembly,
the 4th day of November, 1704.*

N. JOHNSON,
THO. BROUGHTON,
JAMES MOORE,
NICHOLAS TROTT,
ROBERT GIBBES,
HENRY NOBLE.

NOTE.—Repeated by Act of 15th Sep. 1721. Sec. 24.

AN ACT FOR THE MAKING ALIENS FREE OF THIS PART OF THE PROVINCE. No. 228.

WHEREAS, the aliens which now live in this part of the Province of Carolina, by their industry, frugality and sobriety, have acquired to themselves such plentiful estates as hath given this Colony no small reputation abroad, tending to the encouragement of others to come and plant among us, and have and do behave themselves loyally and peaceably towards Her Most Gracious Majesty Queen Anne and her subjects; for the reward and further encouragement of such aliens, as well as to encourage more such industrious men to settle among us, Preamble.

I. *Be it enacted* by his Excellency John Lord Granville, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, That aliens which now live in South Carolina, and have not already put themselves within the purview, benefit, qualifications and capacities of an Act of Parliament made and ratified at Charlestown, the tenth day of March, Anno Domini, 1696-7, entituled an Act for the Making Aliens Free of this Part of the Province, and for Granting Liberty of Conscience to all Protestants; and all aliens which shall hereafter come into this part of the Province, their wives and children, shall have, use and enjoy all the rights, privileges, powers and immunities whatso- Aliens to have the privilege of British subjects.

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ever, which any person born of English parents within this Province may, can, might, could, or of right ought to have, use and enjoy; and they and every of them shall be henceforth adjudged, reputed and taken to be in every condition, respect and degree, as free to all intents, purposes and constructions, as if they had been and were born of English parents within this Province.

And claim
lands as heirs
or purchasers.

II. *And it is further enacted* by the authority aforesaid, That they and every of them shall be and are hereby enabled and adjudged able to all intents, constructions and purposes whatsoever, as well to ask, challenge, demand, retain, take, have, hold and enjoy any manners, lands, tenements and hereditaments, and all other privileges and immunities belonging to any person born within this Province as aforesaid, and to make their resort or pedigree as heirs to their ancestors, lineal or collateral, by reason of any descent, remainder, reverter, right or title, conveyance, legacy or bequest whatsoever, which may or shall henceforth descend, remain, revert, accrue or grow unto them or any of them; also from henceforth to have, keep and enjoy all manners, lands, tenements and hereditaments, which they or any of them now have, or hereafter shall purchase and buy, or hold of the Lords Proprietors of this Province, or of and from any other person or persons to whom the Lords Proprietors have sold and granted the same, as fully, largely, liberally and effectually to all intents and purposes, as if they had been born of English parents in this Province; as also from henceforth to have, retain, keep and enjoy all manners, lands, tenements and hereditaments which they or any of them may or shall have by way of purchase or gift of any person or persons whatsoever; and moreover shall and may lawfully prosecute, sue, implead, maintain, aver and justify all and all manner of actions and suits, causes, complaints, bills and things whatsoever and howsoever, in their own or others names, as fully, amply and effectually as any other person born of English parents in this Province, may lawfully do in any wise.

Bargains and
sales by aliens
valid.

III. *And it is further enacted*, That all titles, and bargains and sales of any lands, tenements and hereditaments which they or any of them have made to any person or persons whatsoever, at any time heretofore, and all bargains, sales and conveyances of lands, tenements and hereditaments which any person or persons whatsoever hath made to them or any of them, are, and are hereby made and declared to be good, substantial, firm and valid in law; *Provided*, the titles to the said lands, tenements and hereditaments had been good in law if both seller and buyer had been natural born subjects of the Kingdom of England, and not otherwise.

Oaths to be
taken.

IV. *And be it further enacted* by the authority aforesaid, That no person or persons now of the age of sixteen, shall have the benefit by this Act given and granted, until he or they shall on the Holy Evangelists, or otherwise according to the form of his profession, take the following oaths, viz :

I, A. B. do sincerely promise and swear that I will be faithful and bear true allegiance to her Majesty Queen Anne. So help me God.

I, A. B. do swear, that I do from my heart abhor, detest and abjure, as impious and heretical, that damnable doctrine and position, that princes excommunicated or deprived by the Pope, or any authority of Rome, may be deposed or murdered by their subjects, or any other whatsoever; and I do declare, that no foreign prince, person, prelate, state or potentate hath, or ought to have any jurisdiction, power, superiority, pre-eminence or authority, ecclesiastical or spiritual, within the realm of England, or the dominion thereof.

V. *Provided* always, That no alien whatsoever, which shall make oath as aforesaid, shall be capable or qualified to be or be elected a member of the General Assembly, any thing in this Act to the contrary notwithstanding. A. D. 1704.

VI *And be it also further provided and enacted* by the authority aforesaid, That no alien made free by this Act, that is under the age of twenty-one years, or which hath less than fifty Acres of land in possession, or value of ten pounds in money, goods or chattels, or rents, and which doth not personally reside and dwell in the county and precinct for which he doth vote for, or pretend to choose members of Assembly, by the space of three months before the dates of the writs for election, shall have right to vote for any member of Assembly in any county or precinct whatsoever, any thing in this Act to the contrary notwithstanding. Not to be chosen members of Assembly.
Aliens may vote.

VII. And the oaths to be made as aforesaid, are hereby required to be administered to any of the persons aforesaid, who then desire the same, by any Justice of the Peace, in this part of this Province, who is hereby required to take no other fee or reward whatsoever for giving and administering and certifying the said oath than one royal, which oath so by him given, administered and certified, shall be given to the person who made such oath, by him to be returned into the Secretary's office, there to be recorded, and the Secretary or his deputy shall ask and receive no other or greater fee or reward for certifying and recording the same in a book by him to be kept for that purpose, than one royal; and if any Justice of Peace shall refuse to give and administer the said oath to any person or persons requiring the same, or do ask or demand any greater fee or reward for his so doing than one royal, or if the Secretary or Deputy Secretary aforesaid shall refuse or deny to receive and enter such certificate or return of any Justice of the Peace, or shall ask and receive any other or greater sum for entering and filing of the same, such Justice of the Peace, Secretary or Deputy Secretary shall forfeit for each offence the sum of five pounds, one moiety thereof to the use of the publick, and the other moiety to him or them that will sue for the same in any court of record in this Province, by bill, plaint or information, or otherwise, wherein no essoign, protection, privilege, wager of law, injunction or stay of prosecution shall be made, admitted or allowed of. Justices may administer the oath.
Secretary to record the oath.
Penalty for overcharge.

*Read three times, and ratified in open Assembly,
the fourth day of November, 1704.*

N. JOHNSON,
THO. BROUGHTON,
JAMES MOORE,
NICHOLAS TROTT,
ROBERT GIBBES,
HENRY NOBLE.

NOTE.—See No. 154, and No. 227, sect. 12; also, Act of 15th Dec. 1720, sect. 20; also Act of 15th Sept. 1721, sect. 3. Confirmed and ratified by the Lords Proprietors, by an instrument under their hands and seals, dated Jan. 10, 1705.

AN ACT for the Expeditious Finishing the Front Line in Charleston. No. 229.

(Ratified 4th Nov. 1704. Much defaced. See concluding volume, for the Charleston Acts.)

A. D. 1704.

No. 230. AN ACT to prevent the breaking down and defacing the Fortifications in Charlestown.

(Ratified 4th Nov. 1704. *See last volume.*)

No. 231. AN ACT against the Killing of Beasts within the Intrenchments of Charlestown.

(Ratified 4th Nov. 1704. *See last volume.*)

No. 232. AN ACT for the better Securing of Charlestown by Stopping the North Barr of Ashley River in case of Invasion, and to disband the Military Watch in Charlestown.

(Ratified 4th Nov. 1704. *See last volume.*)

No. 233.

AN ACT TO SETTLE A PATROLL.

Preamble.

WHEREAS on the sight or advice of an enemy it will be necessary for the safety and defence of the inhabitants of this Collony to draw together to the sea coast, or such other place as the Generall shall direct, all the forces thereof; to prevent such insurrections and mischiefs as from the great number of slaves we have reason to suspect may happen when the greater part of the inhabitants are drawn together,

Ten men of
every company
to be selected.

I. *Be it enacted* by his Excellency John Lord Granville, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, That the Generall do nominate and commissionate one or more captains or officers in every company, and the Generall is requested to appoint one or more captains or officers as aforesaid, and give him or them power to enlist under their respective commands ten men of every company which shall be nominated by the Generall, which men so enlisted shall be discharged of the service of that captain or officer of that company they did before belong to, and shall serve under that captain or officer to be appointed as aforesaid; and every person so enlisted shall provide for himselfe and allwayes keep a good horse, a case of pistolls and a carbine, or other gunn, a sword, a cartouch box, with at least twelve cartridges in it, under the penalty of tenn shillings for want of any one or more things as aforesaid, and shall appear accounted as aforesaid as often as the captain or officer shall command him to do so, at such time and place as he shall appoint, or forfeit for every neglect of appearance on ordinary occasions, the sume of ten shillings, and for every neglect of appearance in time of allarm the sume of ten pounds, and shall be on all occasions obedient to and behave himselfe towards his respective captain or officer, as by an Act entituled an Act for the Better Settling and Regulating the Militia and appointing Look-Outs, every soldier is obliged to, under the paines and forfeitures in the said Act appointed.

To muster
armed and
accounted.

II. *And be it further enacted*, That every captain or officer to be appointed as aforesaid, as often as the Governour shall command him, and as often as he shall think fitt, and on all allarms, shall muster all the men under his command, and with them ride from plantation to plantation, and into any plantation, within the limitts or precincts, as the Generall shall think fitt, and take up all slaves which they shall meet without their master's plantations which have not a permit or ticket from their masters, and the same punish as by an Act entituled an Act for the better ordering of Slaves, is appointed, and shall have power in every respect to put in execution the last before recited Act, and shall follow and observe such orders and instructions as the Generall from time to time and on all occasions shall give them.

A. D. 1704.

Duty of the patrol.

III. *And be it further enacted*, That all the punishments, penalties and forfeitures made and appointed by this Act, shall be made, done, inflicted and levied by the same persons, and in such manner and forme, and disposed of to the same uses, as the paines, punishments and forfeitures to be made, levied and inflicted by an Act entituled an Act for the better Settling and Regulateing the Militia and appointing Look-Outs.

Penalties and forfeitures.

IV. *And whereas*, in Colleton County there is no necessity for a patroll but in time of allarms, *Be it therefore enacted* by the authority aforesaid, that the patroll in the said county shall only in time of allarms be under command of their respective officers of their patroll, any thing in this Act contained to the contrary notwithstanding.

To be called out in time of alarm only.

V. *Whereas*, by an Act entituled an Act for the better Regulateing a Watch in Charlestown, ratified in open Assembly the twenty-third day of December, one thousand seven hundred and three, it is therein provided that the captain or lieutenant of the military watch is to give every person notice the day before they are to watch, and forasmuch as the military watch is discharged, *Be it therefore enacted*, that each captain of the town company shall the next muster day give notice what night every commander with the men belonging to his list of the watch are to take their turne, and such notice is hereby deemed sufficient; and if any person or persons shall neglect or refuse to appeare, or send such a man in his room as the captain of that night's watch shall approve of, shall and is hereby made lyable to all fines and punishments imposed in such cases by the fore recited Act for the better Regulateing the Watch in Charlestown, any thing in the said Act contained to the contrary notwithstanding.

Captains to give notice to their men.

VI. *And be it further enacted* by the authority aforesaid, That if any of the officers or commanders of the said town watch shall neglect or refuse to levy the fines for non-appearance of any nominated in his list, eight days after such default is committed, every such commander or officer so neglecting or refusing shall forfeit the sume of forty shillings, for not levying such default as aforesaid, to be recovered by a warrant under the hand and seale of any Justice of the Peace, one moiety thereof to be paid into the hands of the overseers of the poore for the use of the poore, and the other halfe part to be paid to him or them that shall or will informe of the same.

In case of neglect.

*Read three times, and ratified in open Assembly,
the fourth day of November, 1704.*

N. JOHNSON,
HENRY NOBLE,
THO. BROUGHTON,
JAMES MOORE,
NICHOLAS TROTT,
ROBERT GIBBES.

Repealed.

A. D. 1704.

- No. 234. AN ACT to Prevent and Suppress Fire in Charlestown.
(Ratified November 4th, 1704. The original Act not now to be found.
Inserted by Trott, p. 113. *See last volume.*)
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- No. 235. AN ADDITIONAL ACT to the Act to provide Indifferent Jury-men.
(No. 119.) The original Act not now to be found. Ratified 4th Nov.
1704. Repealed by sect. 45 of the Jury-men Act of August 20, 1731.)
-

- No. 236. AN ORDINANCE of the General Assembly directing the manner how
the Juries shall be drawn.
(Passed Nov. 4, 1704. The original not now to be found.)
-

- No. 237. AN ACT for Raising and Enlisting such Slaves as shall be thought
Serviceable to this Province in time of Allarms.
(Ratified Nov. 4, 1704. Revived and continued by various Acts, and
for two years by the Reviving and Continuing Act of Dec. 12, 1712.
See last volume.)
-

- No. 238. AN ACT TO MAKE GOOD AND VALID WHAT MONEYS THE RECEIVER
HATH PAID BY ORDINANCES OF THE GENERALL ASSEMBLY.

Preamble.

WHEREAS by an Act of Assembly entituled an Act for Laying an Imposition on Furs, Skins, Liquors, &c., ratified the sixth day of May, one thousand seven hundred and three, it is enacted that two thirds parts of all and every the sum and sums of money that shall become due and ariseing by vertue of the said Act, shall be appropriated, ordered and disposed of for and towards the payment of such debts as are due and oweing by the inhabitants of this Province, for disbursments and charges in the late Expedition against St. Augustine, and as is directed by an Act entituled an Act for the raising the Sum of Four Thousand Pounds, &c., and not otherwise. And whereas, by an Additional Act to an Act entituled an Act for raising the Sum of Four Thousand Pounds, &c., it is enacted that when the said sum of four thousand pounds shall be due, as it cometh to be paid to the Receiver's hands, he the said Receiver is hereby impowered and commanded to call in and cancell three thousand pounds of the said bills, made currant by the fore recited Act.

Forasmuch as for the more immediate service and necessary defence and safety of this Province, a great part of the money and bills appropriated by the before recited Acts to particular uses, have been by order of the General Assembly paid and made use of for other uses than they were appointed for and appropriated to by the said Acts ;

Be it enacted by his Excellency John Lord Granville, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the General Assembly, now met at Charlestown, for the South-west part of this Province, That all moneys and bills raised and become due and paid into the Receiver's hands by all or any of the before recited Acts or any other Acts whatsoever, which already are disposed of by the Generall Assembly, and allowed of by the Speaker in the Receiver's accounts by order of the house, are hereby made and declared to be paid and disposed of by the Receiver as full and legally and beneficially, to all intents and purposes, as if the Receiver had paid and disposed of the same according to the directions, appointments and appropriations of the before recited Acts or any other Act whatsoever; and the Receiver, George Logan, Esq. is hereby acquitted and discharged and saved harmless of and from all forfeitures he otherwise is made lyable and subject to for paying any moneys as aforesaid to any other uses than in the said Act is appointed, by an Act entituled an Act for raising the Sum of Four Thousand Pounds on, &c., or by the two before recited Acts; any thing in any of the before recited Acts contained to the contrary notwithstanding.

A. D. 1704.

*Read three times, and ratified in open Assembly,
the fourth day of November, 1704.*

N. JOHNSON,
THO. BROUGHTON,
JAMES MOORE,
NICHOLAS TROTT,
ROBERT GIBBES,
HENRY NOBLE.

Obsolete.

AN ACT TO ASSESS SEVERAL PERSONS OMITTED IN THE LAST ASSESSMENT, AND TO IMPOWER THE RECEIVER TO GATHER IN THE TAXES NOT YET PAID, WITH INTEREST. No. 239.

WHEREAS by an Additionall Act to an Act entituled an Act for raising the sum of Four Thousand Pounds on the Reall and Personal Estates, &c. ratified in open Assembly the three and twentyeth day of December, 1703, there is therein amongst other things enacted and declared that the sume of four thousand pounds shall be equally and indifferently raised upon the estates of all and singular the inhabitants of this Province; and forasmuch as severall of the inhabitants of this Province, whose names are herein inserted, through the neglect of the Commissioners of Inquiry, were not returned to the Assessors, and therefore their quota towards the said tax was not assessed;

Preamble.

I. *Be it enacted* by his Excellency John Lord Granville, Pallatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown, for the south-west part of this Province, *And it is enacted* by the authority of the same, That those persons, viz. John Hendrick, Wm. Shepard, Peter Brown, Ebenezer Wallcott, Mr. John Hays, of Pon Pon, William Eaton, John Jones, Tho. Gary, James Child, John Weaver, James Alford, Abraham Peirce, Rich-

Enumeration of persons taxed who have not paid.

A.D. 1704.

ard Goar, Dr. James Williams, John Barton, Catherine Sullivan, William Sanders, Matthew Barns, Joseph Eves, Elizabeth Baker, Buruet and Graves, Benjamin Izard, Phillip Trovillart for Mr. Lasalle, Mrs. Wetherick, Thomas King and Brothers, Judith Bourdeaux, Widdow Linch, Court Baw, Zebeth Collins, Joel Poinsett and John Hailes, who were omitted to be assessed in the Act for raising Four Thousand Pounds, and were assessed in the Act for raising Two Thousand Pounds, shall pay into the hands of the Receiver for the use of the publick, to be disposed of by an ordinance of the Generall Assembly, double what they were assessed in the Act for raising Two Thousand Pounds, any thing in the afore recited Act contained to the contrary notwithstanding. And if any of the persons aforesaid shall neglect or refuse to pay into the hands of the Receiver, for the use as aforesaid, double the vallue of their dividend in the Act for raising the Sume of Two Thousand Pounds, thirty days after the ratification hereof, the Receiver is hereby impowered to proceed in such manner and forme as by the Act for the raising the Sum of Four Thousand Pounds he is impowered for the due collecting the same.

Tax to be paid,
with 12 per ct.
interest.

II. *And whereas* severall persons have not paid the severall assessments and taxes according to an Act entituled an Act for raising Moneys for the Publick use of this Province, ratified in open Assembly the 28th of August, 1701, and also an Act for raising the Sum of Two Thousand Pounds, of and from the reall and personall Estates and of and from the Profits and Revenues of the Inhabitants of this Province, for the carrying on the present Expedition against St. Augustine, and for the appointing a number of Men and Ships to be made use of, and the manner and method of going against the said place, ratified in open Assembly the tenth day of September, 1702; and another Act, entituled an Act for the Raiseing the Sume of Four Thousand Pounds on the real and personall Estates and of and from the Profitts and Revenues of the Inhabitants of this Province, and establishing of Bills of Credit for satisfying the Debts due by the Publick on account of the late Expedition against St. Augustine, ratified in open Assembly the eighth day of May, 1703; *Therefore it is enacted*, by the authority aforesaid, That all such assessments and taxes not yet paid into the hands of the Receiver by vertue of the afore recited Acts, with the interest at the rate of twelve per cent. from such time as such tax ought to be paid, and such assessments and taxes with the interest as aforesaid, shall into the hands of the Receiver pay the same. And if any of the persons aforesaid shall neglect or refuse to pay into the hands of the Receiver (for the use of the publick, to be disposed of by an ordinance of the General Assembly) all and every such assessments and taxes, together with the interest as aforesaid, the Receiver is hereby impowered to proceed in such manner and form as by the Act for the Raising the Sum of Four Thousand Pounds he is impowered for the due collecting the same.

III. *And be it further enacted*, That all the moneys mentioned to be raised and levied by this Act, shall be and the same is hereby appropriated to and for the paying of the debts already contracted and owing for the fortifying of Charlestown, and to and for carrying on and finishing the fortifications and front line of Charlestown, and to no other use, work, or service whatsoever, any thing in this or any other Act contained to the contrary notwithstanding.

*Read three times and ratified in open Assembly,
the fourth day of November, 1704.*

N. JOHNSON,
THO. BROUGHTON,
JAMES MOORE,

NICHOLAS TROTT,
ROBERT GIBBES,
HENRY NOBLE.

A. D. 1704.

AN ACT for Raising the Sum of Four Thousand Pounds on the Real and Personal Estates, and of and from the Profits and Revenues of the Inhabitants of this Province, to pay and cancel the Bills of Credit now outstanding.

No. 240.

(Ratified Nov. 4th, 1704. Confirmed by the Lords Proprietors, Jan. 10, 1705. Expired. The original Act not now to be found.)

AN Additionall ACT TO AN ACT ENTITULED AN ACT FOR THE ESTABLISHMENT OF RELIGIOUS WORSHIP IN THIS PROVINCE, ACCORDING TO THE CHURCH OF ENGLAND, AND FOR THE ERECTING OF CHURCHES FOR THE PUBLICK WORSHIP OF GOD, AND ALSO FOR THE MAINTENANCE OF MINISTERS AND THE BUILDING CONVENIENT HOUSES FOR THEM.

No. 241.

WHEREAS, by an Act ratified in open Assembly the fourth day of November, 1704, entituled an Act for the Establishment of Religious Worship in this Province according to the Church of England, and for the erecting of Churches for the Publick Worship of God, and also for the Maintenance of Ministers and the building convenient houses for them, amongst other things it is enacted that on Easter Munday, in the year one thousand seven hundred and six, the inhabitants of each parish that are qualified by the said Act to choose vestry men, shall meet at their parish church, or for want of a parish church at such place as the commissioners named in the said Act, or the major part of them that shall meet upon publick summons, shall appoint, and shall there make choice of and appoint two sober and discreet persons, inhabitants of the parish, that are of the religion of the Church of England and do conforme to the same, and that are either freeholders within the same parish or that do contribute to the publick taxes and charges thereof, to be church wardens for that year: but in the said Act there is no provision made for the yearly electing of church wardens from and after the year of our Lord one thousand seven hundred and six; therefore, for certain declaration and supply of the defect of the said Act in that behalfe,

I. *Be it enacted* by His Excellency John Lord Granville, Pallatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the Generall Assembly, now met at Charlestown, for the south-west part of this Province, and by the authority of the same, That from and after the said year of our Lord one thousand seven hundred and six, on every Easter Munday yearly for ever, the inhabitants of each parish, qualified as is required by the above recited Act, for the choice of vestry-men, shall choose two church wardens, qualified as is required by the above recited Act, to serve for the ensuing year, who being so choosen shall take the oaths required of the churchwardens in the above recited Act, and upon refusal to serve shall be liable to the penalties prescribed by the above recited Act for them that shall refuse to serve as church wardens, which are chosen persuant to the said Act. And in case any person choosen for church warden as above prescribed shall happen to dye before the expi-

Preamble.

Church-wardens to be chosen.

The vestry to choose in case of death.

A. D. 1704.

Nine vestry-
men and two
church-
wardens to be
chosen.

ration of the year for which he is choosen, that then the major part of the vestry of the parish with all convenient speed shall summon and appoint a meeting of all the inhabitants of the parish, qualified as is before directed, to choose a person, qualified also as is before directed, to be churchwarden the remaining part of the year, in the room of such church warden so deceased.

II. *And whereas*, by the above recited Act, amongst other things it is also enacted that on Easter Munday, which shall be in the year of our Lord one thousand seven hundred and six, the inhabitants of each parish, qualified as is before expressed in the said Act, shall choose nine vestry-men for each parish, as also on the said Easter Munday in the said year that the church wardens of each parish shall be choosen; now the reason of the deferring the time for the election of vestry-men and church wardens untill Easter Munday in the said year one thousand seven hundred and six, being upon this consideration, that there being six churches appointed by the said Act to be built, and also six convenient houses for ministers, and then ministers to be procured for each parish, it was therefore reasonable to believe that it would take up so long time from the ratification of the said Act to Easter Munday in the said year one thousand seven hundred and six, before the churches and ministers houses could be built and ministers procured, so as to form each precinct into a regular parish; and whereas in the said Act there is no exception to or provision for the electing of vestry-men and church-wardens for the Parish of St. Philip in Charlestown, although all things is there in a readiness to the forming the same into a regular parish, and the want of vestry-men and church-wardens for the said Parish of St. Philip, Charlestown, till Easter Munday in the said year one thousand seven hundred and six, will be a great hinderance and delay to the despatch of parish business; therefore, for the prevention of such delays, and for the more easy and ready dispatch of the parish business of St. Philip's, Charlestown, *Be it further enacted* by the authority aforesaid, That on next Easter Munday, which shall be in the year of our Lord one thousand seven hundred and five, that nine vestry-men and two church-wardens for the said Parish of St. Philip's, Charlestown, shall be choosen, in every thing according to the directions of the above recited Act for the electing of vestry-men and church-wardens on Easter Munday which shall be in the year one thousand seven hundred and six; and being so choosen and qualifying themselves as prescribed by the above recited Act, they shall and may lawfully execute all the powers granted to the vestry-men and church-wardens in the above recited Act, as fully and amply to all intents and purposes as the vestry-men and church-wardens may do that shall be choosen on the next succeeding Easter Munday which shall be in the said year of our Lord one thousand seven hundred and six, any thing in the above recited Act to the contrary thereof in any wise notwithstanding.

Dissenting
ministers may
christen, marry
and bury.

III. And for the remedying of all difficultys and disputes that may arise hereafter within the said parish of St. Philip's in Charlestown, and all other parishes that are or shall be hereafter settled within this Province, that the ministers of the church of England may pretend to be authorized in their respective parishes to marry, christen and bury all and every person to be married, christened and buried within their respective parishes, *It is hereby declared*, that it is not meant or intended by the aforesaid Act to take away any right or usage of christening, burying or marrying from any of the ministers of any of the dissenting congregations, any mis-

construction or misinterpretation of the said Act contained to the contrary notwithstanding. A. D. 1704.

*Read three times and ratified in open Assembly,
the seventeenth day of February, 1704-5.*

N. JOHNSON,
JAMES MOORE,
NICHOLAS TROTT,
ROBERT GIBBES,
HENRY NOBLE.

NOTE.—Repealed by the Repealing Act of Nov. 30, 1706.

AN ACT TO PREVENT STEALING OF HORSES AND NEAT CATTLE.

No. 242.

WHEREAS the great distance of one part of this Collony from another, and the difficultys of passing over rivers, creeks, marshes and swamps, which lye between plantation and plantation, makes it hard to find out a horse which hath strayed or been stolen from his owner, which is a great encouragement to horse stealing, and the greatest reason of its being grown so common; for the prevention whereof, Preamble.

I. *Be it enacted*, by his Excellency John Lord Granville, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, *And it is enacted* by the authority of the same, That every person which thirty days after the ratification of this Act shall buy or exchange any horse, mare, guelding, colt or filly, without avouching or tolling the same before a Justice of the Peace, in such manner and form as herein hereafter is appointed, shall loose and forfeit every horse, mare, guelding, colt or filly, which he shall buy or exchange as aforesaid, if the same happen to be stolen, to the right owner thereof. Horses to be
toll'd before a
Justice before
sale.

II. *And be it further enacted* by the authority aforesaid, That every Justice of the Peace to whom any person shall come to toll or avouch any horse, mare, guelding, colt or filly, shall avouch and toll the same, and in a book for that end by him kept, shall enter the time of sale and the name and place of dwelling of every seller and buyer of such horse, mare, guelding, colt or filly, and the burnt mark or other notable flesh mark thereof, and the price or thing for which the same is sold or exchanged, and shall under his hand give a certificate of such his entry to every respective buyer requiring the same, he paying the said Justice one royal for the same, under the paine of thirty shillings for every neglect aforesaid, to be recovered in such manner as the Act for Small and Mean Causes directs, the one moiety to him or them that shall inform for the same, and the other moiety to be paid into the hands of the publick Receiver for the use of the publick, to be disposed of by an ordinance of the Generall Assembly. Justice to keep
a book of entry.

III. And every person in whose custody, as pretended owner thereof, any horse, mare, guelding, colt or filly, shall be found, which is not avouched or toll'd as aforesaid, and shall happen to be stolen, shall, unless he can prove by one or more witnesses from whom he bought the same,

A. D. 1704. be taken and deemed the stealer thereof, and be, after legally convicted thereof, guilty of felony, without benefit of clergy.

To give a copy
of his entry
when required.

IV. And for the better discovery of stolen horses, *Be it further enacted*, That every Justice of the Peace before whom any sale or exchange of any horse, mare, guelding, colt or filly shall be avouched as aforesaid, shall give under his hand a true and full copy of his entry thereof to any person requiring the same, he paying one royall for the same, or for refusall thereof shall forfeit thirty shillings, to be recovered in such manner and form and for such use as the said forfeiture of thirty shillings is before ordained and appointed; and every person at whose request any horse, mare, guelding, colt or filly, shall be tolled and avouched as aforesaid, shall pay to that Justice before whom the same is done, one royall, and no more.

Butchers to
toll the cattle
they mean to
slaughter.

Toll-master to
be appointed.

Marks to be
described on
oath.

To be entered
by the toll-
master.

Penalty.

V. And for the prevention and discouragement of stealing of neat cattle, which for want of due means to prevent the same is grown very common, *Be it further enacted*, that every butcher or other person which at any time after the tenth day of March next, shall kill for sale any neat beast above eighteen months old, in Charlestown or within four miles up the Neck thereof, shall avouch and toll the same before such voucher or toll-master, who shall be nominated and appointed by James Risbee, Esq. who is hereby authorized and impowered to appoint the same, and him so appointed shall turn out and displace when and as often as he think fitt; and if the said toll-master shall dye or depart this Province, he the said James Risbee, shall appoint another in his room as aforesaid. And every butcher or other person which shall kill or expose to sale any such neat cattle, within the limits as aforesaid, shall before such voucher or toll-master so nominated, declare upon oath on the Holy Evangelists, the number, sexes and sortes of neat beasts, the ear and burnt marks of every of them, and of whom they bought the same; and every person which at any time after the tenth day of March aforesaid, shall kill any neat beast as aforesaid, within the bounds aforesaid, without tolling the same as aforesaid, shall forfeit the sume of ten pounds for every neat beast so killed, to be recovered in any court of record in this Province, to be disposed the one moiety thereof to him or them that will sue for the same, the other moiety to be paid to the publick Receiver for the use of the publick. And the toll-master aforesaid shall take and receive from every person which shall make toll of any neat beasts, two royalls for every beast of different mark, and no more, and for any number of neat beasts of one and the same mark, tolled at one and the same time, two shillings and sixpence, and no more. And the toll-master shall keep a book for tolling of neat beasts, in which he shall enter the time, number, sorts, sexes, marks, and the name of the person which tolls the same, together with the name of the person they were bought, of all cattle tolled before him, which book he shall shew to any person which shall desire to see the same, or give a certificate under his hand of such his entry, the person requiring the same paying him one royall for the same.

VI. *And be it further enacted*, That the toll-master for neat beasts shall forfeit the sum of five pounds for every neglect or fault he shall make in the execution of this Act, to be recovered in any court of record within this part of the Province, the one moiety to him or them that will sue for the same, the other moiety to the publick receiver for the use of the publick.

*Read three times and ratified in open Assembly,
the seventeenth day of February, 1704-5.*

ROBERT GIBBES,
HENRY NOBLE.

N. JOHNSON,
JAMES MOORE,
NICHOLAS TROTT,

Repealed.

A. D. 1704.

AN ACT for the Making and Mending of Roads and Highways, and
for the Making a Bridge over Icahaw Creek in Craven County. No. 243.

(Ratified 17th February, 1704-5. See last volume.)

AN Explanatory ACT TO AN ACT ENTITLED AN ACT FOR THE RAISING
THE SUM OF FOUR THOUSAND POUNDS ON THE REALL AND PERSONALL
ESTATES, AND OF AND FROM THE PROFITTS AND REVENUES OF THE
INHABITANTS OF THIS PROVINCE, TO PAY AND CANCELL THE BILLS OF
CREDITT NOW OUTSTANDING; RATIFIED IN OPEN ASSEMBLY, THE FOURTH
DAY OF NOVEMBER, ONE THOUSAND SEVEN HUNDRED AND FOUR. No. 244.

WHEREAS, some difference and disputes have arisen in the interpretation of the words *cropps* to be assessed and taxed in the afore recited Act; for the explanation and remedying the said doubts and difficultys, Preamble.

I. *Be it enacted* by his Excellency John Lord Granville, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, *And it is enacted* by the authority of the same, That the Commissioners of Enquiry and Assessors appointed by the afore recited Act, are to return and assess so much of the cropps in possession as may or would be disposed of, and not that part or whole of the cropp that is for the plantation use and sustenance of the whole family thereof, and not otherwise. Crops how to be assessed.

II. *And whereas*, there are some disputes and doubts arisen in the interpretation of the true intent and meaning of the said Act, concerning the persons who are appointed Commissioners to inquire and take an account of the estates, goods, merchandizes, &c., as well in Charlestown as in the severall parts of the country, as also concerning the Assessors named in the said Act, as if the persons so named and appointed Commissioners of Enquiry, or Assessors, could not act as the said Act directs, except they were all personally present, which cannot well be expected by reason of sickness, death, or other accidents; to remove, therefore, and clear all doubts which are arisen or may hereafter arise about the same, *Be it enacted* by the authority aforesaid, That the major part of the Commissioners of Enquiry, in their respective division, and the major part of the Assessors named in the said Act, shall have power to act and do any thing or things required by the said Act by them to be done, as if they were all personally present, and where there are but two Commissioners of Enquiry appointed for any part of the country, that then any one of them, in the absence by sickness, or other accident happened to the other, shall act as if both were present, and make enquiry and return to the Assessors for that part or precinct they are appointed to do, any thing in the said Act to the contrary in any wise notwithstanding. Power of the Commissioners and Assessors.

III. *And whereas*, there is also some doubt arisen upon the construction and true meaning of some words contained in the said Act, viz. these words, (an account of the estates, goods, merchandizes, stocks, abilities, offices and places of profits, cropps in possession, of what kind and nature soever, which their and every of their neighbours have and enjoy, in manner and forme following, that is to say, of the number of neat cattle, horses, Return to be made to the Assessors.

A D. 1704

sheep, swine, white servants, with their trades and capacities, the quantity of lands, the place the same lieth in, and the building and improvements thereon and belonging to the same,) by which particulars so named, some persons conceive that the general design of the said Act as to goods, merchandizes, stocks, abilities, offices and places of profits, or any other sort of estate of any kind or nature whatsoever, except what is namely expressed, is not to be inquired into, returned and assessed; to clear, therefore, the said doubts, and for the further explanation of the true intent and meaning of the said Act, *Be it enacted* by the authority aforesaid, That the Commissioners of Enquiry in their respective division, or the major part of them, or any one of them, where there is not more than two appointed, shall inquire into, and make return to the Assessors, or the major part of them, who shall assess the same of and into all goods, merchandizes, stockes, abilities, offices and places of profit, or any other sort of estate of any kind or nature whatsoever, as well as into all the particulars named and expressed in this and the afore recited Act, any thing in the said Acts to the contrary in any wise notwithstanding.

*Read three times, and ratified, in open Assembly,
the 17th day of February, 1704-5.*

N. JOHNSON,
JAMES MOORE,
NICHOLAS TROTT,
ROBERT GIBBES,
HENRY NOBLE.

NOTE.—Confirmed and ratified by the Lords Proprietors, Jan. 10, 1705. Expired.

No. 245. AN Additional ACT TO AN ACT ENTITLED AN ACT FOR ASCERTAINING THE GAUGEING OF BARRELLS, AND FOR AVOIDING DECEITS IN SELLING AND BUYING BEEF AND PORK, PITCH AND TARR.

Preamble.

WHEREAS, by the afore recited Act, ratified in open Assembly, the seventeenth day of September, 1703, there are two packers appointed in Ashley and Cooper Rivers, to pack beef and pork in the said rivers, and such beef and pork packed by them, are to be put on board vessells in the said rivers, lying above Charlestown, and not otherwise, which is much to the prejudice of severall of the inhabitants of this part of the Province; for the future prevention thereof,

Beef, &c..
already
surveyed by
the Packer,
may be
exported.

I. *Be it enacted* by his Excellency, John Lord Granville, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, *And it is enacted* by the authority of the same, that all beef, pork, pitch and tarr, that shall be packed, gauged and surveyed by the said packers, or either of them, according to the tenor and direction of the afore recited Act, shall or may be shipped on board any vessel within the harbour, any thing in the said Act contained to the contrary notwithstanding.

II. *And whereas*, great quantitys of porke are imported from Roanoke and other the northern plantations, and exported from this part of the Province to severall of her majesty's Collonys, under the name of Carolina

porke, and marked with our packer's mark, which may much prejudice the sale of our porke in forreign parts; therefore for the prevention of the said inconveniency, *Be it enacted* by the authority aforesaid, That all such porke which shall hereafter be imported as aforesaid, and exported, shall be marked with the letter N, and packed by the packers authorized thereunto, and every barrell of porke imported from Roanoke, or any part of that Government, or any other of the northward plantations, he she or they importing the same shall pay unto the publick Receiver the sum of twelve shillings and six pence for every barrell, and six shillings and three pence for every half barrell of porke, and five shillings for every hundred weight of porke that shall be imported in bulk, to be paid into the hands of the publick Receiver, for the use of the publick, to be disposed of by an ordinance of the Generall Assembly.

A. D. 1704.

Beef imported
for exportation
to be marked
with the letter
N.

III. *And be it further enacted* by the authority aforesaid, That George Beadon, junior, is appointed packer for Charlestown, or such other parts of this Province as he shall be called to, and be willing to go to, without neglecting the discharge of his duty in Charlestown; and the said George Beadon, before he enters in the execution of the said office of packer, shall enter into bond to John Buckley, Edward Loughton and William Gibbons, or the survivors of them, in the sume of one hundred pounds, with two sufficient securitys, in trust, for the use of the publick, for the true performance of his said place and trust; and if the said George Beadon shall neglect to perform his duty, he shall be displaced by an ordinance of the Generall Assembly, and another appointed in his place; and if the said George Beadon shall neglect to perform the said place or trust, or shall happen to die or depart this Province, then in such case (the Generall Assembly not sitting) the Commissioners aforesaid are hereby authorized and impowered to appoint another in the room of him, the said Beadon, refusing or neglecting his office, dying or departing this Province as aforesaid; and the said George Beadon shall also, before he enters into the execution of his said office, take his oaths before any Justice of Peace, well, truly and justly to execute and perform his office of packer, any thing in this Act to the contrary in any wise notwithstanding.

To enter into
bond.

In case of
neglect of duty
another may
be appointed.

IV. *And be it further enacted*, That the said George Beadon shall have liberty to appoint one or more deputy or deputys under him, to help him and officiate in his place of packer; and the said deputy or deputys, before they do act in the said office, shall also take their oaths, in the same form and manner that the said George Beadon is hereby required, to do and perform faithfully the said place of deputy packer.

May appoint
deputies.

V. *And be it further enacted*, That the said George Beadon, or his deputy or deputys, or any other packers whatsoever, shall not cut any beef or pork in packing the same, in less peices than four pound peices, any custom to the contrary in any wise notwithstanding.

Pieces not to
be less than 4
lbs.

VI. *And be it further enacted*, That the said George Beadon or the packer for the time being shall demand and take no more for the searching and marking of pitch than one penny per barrell, and three pence for every barrell of tarr, any law, custom, or ordinance to the contrary in any wise notwithstanding.

*Read three times, and ratified in open Assembly,
this seventeenth day of February, 1704-5.*

N. JOHNSON, ROBERT GIBBES,
JAMES MOORE, HENRY NOBLE.
NICHOLAS TROTT,

See Act of Nov. 17, 1703, and Feb. 8, 1706-7.

VOL. II.—34.

A. D. 1704.

No. 246. AN *Additional* ACT for the Making of Highways, and for Appointing a Ferry over the Western Branch of Cooper River, and for Continuing the Act for Killing Beasts of Prey.

(Ratified 17th February, 1704-5. The Act for killing beasts of prey hereby continued, is the Act of May 8, 1703, and which is expired and repealed. *See last volume.*)

No. 247. AN ACT FOR THE CONTINUING, MEETING AND SITTING OF THIS PRESENT ASSEMBLY, FOR THE TIME AND SPACE OF TWO YEARS, AND FOR THE TERM AND TIME OF EIGHTEEN MONTHS AFTER THE CHANGE OF GOVERNMENT, BY THE DEATH OF THE PRESENT GOVERNOUR, OR THE SUCCESSION OF ANOTHER IN HIS LIFE TIME.

Preamble.

THE Commons now assembled for the south-west part of this Province, taking into their serious consideration the manifold and great dangers this her Majestie's Colony is liable and exposed unto, from the invasions of our neighboring and implacable enemies, the French and Spaniard, which, to **** and repell, whenever it shall please God to punish us there withall, may necessarily require the meeting and sitting of the Assembly, whether it be for the granting and raising of money for the defence, or for the advising and consenting to all other ways and means which may be found expedient for the safety and preservation of this Province; but forasmuch as an Assembly, if this present Assembly be dissolved, cannot be summoned and called to sit by the persons thereunto authorized, with such expedition and dispatch as the exigency of the case may require; *And whereas*, the calling of the inhabitants to an election, at their great expenses and loss of time, when their united force should be engaged at the same time and in some other place, for their interest or defence, may prove very detrimental to their private affairs, and wholly inconsistent with the publick safety; *And whereas*, next to the generall security of the country, the interest and preservation of the Church of England, so happily begun to be established in this Province by the zealous endeavours of the Right Honourable the present Governour, ought to be principally regarded, which, notwithstanding, by a change and alteration of Government, by the succession of a new Governour, may be endangered of being undermined, if not wholly subverted and overthrown, by the enemies thereof; for the prevention of the mischiefs and inconveniences aforesaid, and for the continuing, meeting and sitting of this present Assembly,

I. *Be it enacted* by his Excellency John Lord Granville, Palatine, and the rest of the true and absolute Lords and Proprietors of the said Province of Carolina, by and with the advice and consent of the rest of the members of the Generall Assembly, now met at Charleston for the south-west part of the said Province, and by the authority of the same, That this present Assembly shall continue, and is hereby impowered and required to meet, convene and sit, and to act from and after the ratification of this Act, for and during the full term and time of two whole years, and no longer, unless the same shall be sooner prorogued by the Right Honourable the Governour and Councell; and if the said Assembly shall be so prorogued, then it shall meet and sit, and is hereby required to meet and sit on and

This Assembly
to convene for
two years after
the ratification
of this Act.

upon the day unto which it shall be prorogued, and continue for the residue of the said time of two years, unless sooner prorogued as aforesaid; and unless in the case of the death of this present Governour, or the succession of another in his life-time, any change or alteration of Government happen, then and in such case this present Assembly shall continue, and it is hereby empowered and required to meet, convene and sit, and to act as an Assembly, from and immediately after the death of this present Governour, or the succession of another to this Government before or after his death, for and during the full term and time of eighteen months after such change or alteration of Government as aforesaid.

A. D. 1705.

II. *And be it further enacted* by the authority aforesaid, That this present Assembly shall not determine or be dissolved by any power or person whatsoever, at any time within two years from and after the ratification of this Act, or any time in eighteen months after any change or alteration of Government by the death of this present Governour, or the succession of another to this Government before or after the death of this present Governour, but the same shall continue, and is hereby enacted to continue, and empowered and required to meet, convene and sit, and to act as an Assembly to all intents and purposes during the time of two years, or eighteen months as aforesaid, any law, custome or usage to the contrary in any wise notwithstanding. And for 18 months after the change of Government.

III. *And be it enacted* by the authority aforesaid, That the Governour and Councell for the time being, shall and lawfully may call together this present Assembly upon urgent occasions, at any time before the day on which, according to the time limited by any prorogation or adjournment, it was to meet and sit, and that the said Assembly shall then meet, and they are hereby required to meet and do all other matters and things as an Assembly may do before such prorogation or adjournment; any law, usage, custome, or any thing which may happen to the contrary thereof in any wise notwithstanding. The Governour and Council may convene this Assembly.

IV. *Provided* always, and it is hereby declared, that nothing in this Act contained shall extend, or be construed to extend to alter and abridge the power of the said present Governour and Lords Deputies for the time being, during his Government, to prorogue or dissolve this present Assembly, but that this present Governour and Deputies as aforesaid, during his Government, hath the same power for the prorogueing or dissolving this present Assembly, as if this Act had never been made; nor shall this Act extend, or be construed to extend to the repealing or making void one Act of Assembly entituled an Act for the determination of Generall Assemblies &c., but that the said Act shall continue in force in every thing that is not contrary to or inconsistent with the directions of this Act.

*Read three times, and ratified in open Assembly, this
23d day of March, 1705-6.*

N. JOHNSON,
JAMES MOORE,
NICHOLAS TROTT,
ROBERT GIBBES,
HENRY NOBLE,
BENJ. BARONS.

A. D. 1706.

No. 248. *AN ACT* TO ERECT THE FRENCH SETTLEMENT ON SANTEE INTO A
PARISH.

WHEREAS, the inhabitants of that part of Craven County which is commonly known and called by the name of the French Settlement, on Santee River, have by their humble petition shewed that by reason of the remoteness of the said settlement from any one of the parishes lately erected in severall parts of this Province by virtue of an Act entituled an Act for the Establishment of Religious Worship, and humbly prayed that a Parish might be erected among them; Therefore, for the glory of God, the advancement of piety, virtue and true religion in all parts of this Province, and to the end all may be edified, and youth well educated and instructed in the principles and practices of the Christian Religion, according to the doctrine of the Church of England, established by law;

The church in Jamestown declared to be a parish church.

I. *Be it enacted* by His Excellency John Lord Granville, Pallatine, and the rest of the true and absolute Lords and Proprietors of the said Province, by and with the advice and consent of the Members of the Generall Assembly now met at Charlestown for the South-west part of this Province, and by the authority of the same, That from henceforth for ever, the church which now is built in Jamestown in the said settlement, or any new church hereafter to be built or erected in the said place instead thereof, is hereby made, erected and declared to be a parish church of St. James on Santee River, and shall be and continue so forever in all things as the other parishes erected by the afore mentioned Act are or ought to be.

The rector and minister to enjoy the usual privileges.

II. *And be it further enacted* by the authority aforesaid, That the rector or minister of the said parish shall have and enjoy all such priviledges and advantages, and shall also be under all such rules, laws and limitations in all things as the other rectors or ministers of the severall parishes erected in this Province; and upon complaint being made against such rector or minister, according to the direction of the said Act, to the Commissioners of the said Act for the time being, that such rector or minister shall be liable to be censured and removed by the said Commissioners, as any other rector or minister of any of the other parishes of this Province is liable to.

Annual sum appointed to the minister.

III. *And be it further enacted* by the authority aforesaid, That the minister or rector of the said parish of St. James on Santee River, shall have and receive forever from and out of the publick treasury, out of the moneys arising by virtue of an Act entituled an additional Act for the laying an imposition on Furrs, &c., which is appropriated for the salaries of the severall ministers in this Province, the sum of fifty pounds yearly, in the same manner that all other ministers are to have the said sum by the said Act, the which sum of fifty pounds yearly is hereby further appropriated forever out of the moneys arising by the aforesaid Act, besides what was before appropriated to the use of ministers, and no others; and the publick Receiver for the time being is hereby strictly charged and required to reserve and pay the same accordingly, under the same penalties, forfeitures and disabilities which are to be incurred by the said Act for misapplying moneys thereby raised, the said payment to begin and commence from and immediately after the arrival in this Province of a minister sent by the Right Reverend Father in God, Henry, Lord Bishop of London, or any other of his lawfull successors, Bishops of London, for the time being.

IV. *And whereas*, many of the inhabitants of the said settlement and parish were borne in France, and have not the advantage to understand the English tongue so as to receive any benefit or edification if the divine service, prayers and sermons were performed in the said English tongue; *Be it therefore enacted* by the authority aforesaid, That it shall and may be lawful for the minister or rector of the said parish, during such time and as long as the major part of the inhabitants of the said settlement and parish shall think fit and convenient, to performe and read the common prayers and administer the sacraments, and to use all the other rites and ceremonies, according to the use of the Church of England, as also all other proper prayers and sermons, in the French tongue, and no longer; *Provided* always, that they use the translation of the said book of common prayers, &c. which was translated in the said French tongue by Dr. John Durell, by the express command and order of the late King Charles the Second, for the use of his Majestie's Chapell of the Savoy, and his Islands of Jersey and Guernsey, and such other parts of his Majestie's dominions as should want the same, which translation was with the approbation of the Lord Bishop of London, by his Majestie's order, ordered to be set forth, and no other.

A. D. 1706.

The French translation of the English book of Common Prayer used.

*Read three times, and ratified in open Assembly,
the ninth day of April, 1706.*

N. JOHNSON,
ROBERT GIBBES,
JAMES MOORE,
NICHOLAS TROTT,
HENRY NOBLE,
BENJ. BARONS.

NOTE.—Repealed by Act of Nov. 30, 1706.

AN ADDITIONAL ACT to an Act entituled an Act for the Cutting and Making a Path out from the Road on the North side of Ashley River to the Town of Wilton in Colleton County, and appointing Ferries on the said Road. No. 249.

(Ratified April 9, 1706. The first part of this Act is no longer extant; what remains will be inserted among the Acts relating to Highways, in the concluding volume.)

AN ACT RELATING UNTO THE OFFICE AND DUTY OF A CORONER, AND FOR SETTLING AND ASCERTAINING THE FEES OF THE SAME. No. 250.

WHEREAS the office of a Coroner is an office of great antiquity, trust and authority, and upon the faithful discharge thereof the preservation of the peace of this Province doth in a great measure depend: To the intent, therefore, that the several Coroners of this Province may be fully directed in the due administration of their offices, and be encouraged in the faithful and diligent execution of the same,

Preamble.

A. D. 1706.

Coroners
impowered to
take inquests
of Felonies and
other violent
and casual
deaths.

I. *Be it enacted* by his Excellency John Lord Granville, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, and by the authority aforesaid, That every Coroner within the county for which he is appointed, shall be and hereby is impowered to take inquests of felonies and other violent and casual deaths committed or happening within his precincts; and before he undertake the execution of his said office, shall take the following oath for his due and faithful performance thereof, before the right honourable the Governour, the honourable the Deputy Governour, the Chief Justice, or any two or more of the Lords Deputies, or such other person or persons as shall be thereto appointed by the Governour, That is to say,

Coroner's oath.

You swear that well and truly you shall serve our Sovereign Lady the Queen, in the office of a Coroner, and as one of the Coroners for — County, and therein you shall truly and diligently do and accomplish all and every thing and things appertaining to your office, after the best of your cunning, wit and power, for the profit and good of the inhabitants within the said County, taking such fees as you ought to take by law, and not otherwise. So help you God.

A Jury of 14
men to be
summoned.

II. *And be it further enacted* by the authority aforesaid, That when and so soon as any Coroner shall be certified of the dead body of any person supposed to have come to a violent and untimely death, found or lying within his county or precinct, he shall make out his warrant directed unto all or any of the Constables of the same county where such dead bodies lies, requiring them forthwith to summons a jury of fourteen good and lawful men of the same county, to appear before him at the time and place in the said warrant expressed, which warrant shall be made in this form, viz.

To any of the Constables of — County, Greeting.

Form of
warrant.

These are in her Majesty's name to require you, immediately upon the receipt and sight hereof, to summons and warn fourteen good and lawful men of the said county to be and appear before me, the Coroner of the said — county, at — within the said county, betwixt the hours of — and — of the clock in the — day of — then and there to enquire upon the view of a body of a certain person there lying dead, how and in what manner he came to his death: Fail not herein, as you will answer the contrary at your peril. Given under my hand and seal at — the — day of — in the year of our Lord — and in the — year of her Majesty's reign, by me — Coroner for — County.

Penalties.

III. And every Constable unto whom any such warrant shall come, shall forthwith execute the same, and repair unto the place at the time therein mentioned, and make return of the warrant, with his doings therein, unto the Coroner that granted the same; and every constable failing of performing his duty by such warrant required of him, or returning the same as aforesaid, shall forfeit the sum of forty shillings; also every person summoned and warned to be a juror failing to appear accordingly, shall also forfeit the sum of forty shillings, without reasonable excuse for the same, to be made unto and allowed of by the Coroner and the next Justice of the Peace; and the Coroner shall swear twelve or more of the Jurors that appear, and give the fore-man (to be by him appointed) his oath, upon view of the body, in this form, that is to say:—

Coroner shall
swear jurors.

Form of oath.

You shall enquire and true presentment make on behalf of our Sovereign Lady the Queen, how and in what manner A. B. here lying dead came to his death, and you shall deliver up to me her Majesty's Coroner, a true

verdict thereof, according to such evidence as shall be given you, and according to your knowledge; so help you God. And then shall swear the rest of the jurors by three or four at once in this form, viz. All such oath as I. M. the fore-man of this inquest, for his part hath taken, you and every one of you shall well and truly observe and keep on your parts. So help you God.

A. D. 1708.

IV. The Jury being sworn, the Coroner shall give them a charge upon their oath to declare of the death of the person, whether he died of felony or by mischance and accident, and if of felony, whether of his own or another, and if by mischance and misfortune, whether by the act of God or of man, and if he died of another's felony, who are principals and who accessaries, who threatened him of his life or members, with what instrument he was struck or wounded, and so of all prevailing circumstances that can come by presumption; and if by mischance or accident, by the act of God or man, whether by hurt, fall, stroke, drowning or otherwise, to enquire of the persons that were present, the finders of the body, his relations or neighbours, whether he was killed in the same place or elsewhere, and if elsewhere, by whom and how he was there brought, and of all other circumstances; and if he died of his own felony, then to enquire of the manner, means and instrument, and circumstances concurring.

Coroner's charge to Jury.

V. And the jury being charged, they must stand together and let proclamation be made, for any that can give evidence to draw near and they shall be heard.

Proclamation made.

VI. And every Coroner is hereby further impowered to send out his warrant for witnesses, commanding them to come to be examined before them, and to declare their knowledge concerning the matter in question; and every person summoned or warned to be a witness failing to appear accordingly, shall forfeit the sum of forty shillings, without a reasonable excuse for the same be made unto and allowed of by the Coroner and next Justice of the Peace; and if the evidence be not ready, the Coroner may adjourn until another day and place to receive their evidence, binding the jury by a recognizance in five pounds a piece for their appearance. And to such witnesses as do appear, the Coroner shall administer an oath in this form, that is to say: All such evidence as you shall give to this Inquest concerning the death of A. B. here lying dead, shall be the truth, the whole truth, and nothing but the truth, so help you God. The examination of such witnesses to be taken in writing under their hands, and if they relate to the trial of any person concerned in the death of the party found dead, then shall the Coroner bind over such witnesses by recognizance in a reasonable sum not less than twenty pounds a piece, personally to appear at the next court of General Sessions and Goal Delivery to be holden for this Province, then and there to testify their knowledge concerning the death of the said A. B. And the jury having viewed the body, heard the evidence, and made what enquiry they can into the manner and causes of the death of the person, they shall draw up and deliver unto the Coroner their verdict thereupon, in writing under their hands and seals, in manner following, which shall pass by indenture interchangeably between the Coroner and the Jury; that is to say,

Penalty on witnesses not appearing.

AN Inquisition indented taken at — in the said — County, the — day of —, in the — year of the reign of our Sovereign Lady Anne, by the grace of God, of England, Scotland, France and Ireland, Queen, Defender of the Faith, &c. and in the year of our Lord — before — Gent. — the Coroner of our said Lady the Queen, in — County aforesaid, upon view of the body of A. B. of — aforesaid, then and there being dead, by the oaths of I. W. R. W. H. P. &c. [the

Form of Inquisition.

A.D. 1706. names of the jurors] good and lawful men of — aforesaid — who being charged and sworn to enquire for our said Lady the Queen, when and by what means and how the said A. B. came to his death, upon their oaths do say, &c. Then insert how, where, at what time, by what means, with what instrument, and in what manner, the party was killed or came to his death.

If the person is murdered by another that is known. And if it shall appear the person to have been killed and murdered by another that is known, the inquisition must be concluded after this manner, viz :

And so the Jurors aforesaid upon their oaths aforesaid, say, that the aforesaid R. S. in manner and form aforesaid, the aforesaid A. B. then and there feloniously did kill and murder, against the peace of our Sovereign Lady the Queen, her crown and dignity.

If by self murder. If it appear to be self-murder, the inquisition must conclude after this manner, viz :

And so the Jurors aforesaid say upon their oaths, that the said A. B. in manner and form aforesaid, then and there voluntarily and feloniously as a felon, of himself did kill and murder himself, against the peace of our Sovereign Lady the Queen, her crown and dignity.

If by misfortune. If it appear the person to be slain by misfortune, the inquisition must conclude after this manner, viz :

And so the Jurors aforesaid say upon their oaths, that the aforesaid A. B. in manner and form aforesaid, was killed or came to his death by misfortune.

If by the hands of another person. If by the hands or means of any other persons, thus, viz :

The aforesaid R. F. the aforesaid A. B. by misfortune and contrary to his will, in manner and form aforesaid, did kill and slay. In witness whereof as well I the Coroner aforesaid, as the Jurors aforesaid, to the inquisition have interchangeably put our hands and seals the day and year abovesaid.

Coroner to make returns. VII. And the Coroner shall make return of all such inquisition taken before him, into the next court of General Sessions and Goal Delivery to be holden for this Province, and upon any verdict found of the death of a person by the felony or misfortune of another, shall speedily inform one or more of the next Justices of the Peace of the County, to the intent that such person killing or being any ways instrumental to the death of any other, may be apprehended, examined and secured in order to a trial.

Coroner's fees. VIII. And for the better encouragement of Coroners of this Province to be faithful and diligent in the execution of their several offices, *Be it enacted* by the authority aforesaid, That the Coroners of this Province shall have and receive for the execution of their office ;

If within ten miles of the Coroner's residence, two pounds.

If within fifteen miles, two pounds ten shillings.

If within twenty miles, three pounds.

If within thirty miles, three pounds ten shillings.

If more than thirty miles, four pounds.

And no other fees or demands whatsoever ; which allowance shall be paid out of the publick treasury.

No person supposed to have come to a violent death to be buried without notice given to the Coroner. IX. *And be it further enacted* by the authority aforesaid, That in case any person in this Province shall bury, or cause to be buried, any person supposed to come to a violent and untimely death, before timely notice is given to the Coroner to view the body, and to make enquiry into the manner and causes of the death of the party, as is before directed by this Act, such person so offending shall forfeit the sum of five pounds ; and the Coroner is hereby empowered to order such body so buried to be taken

up, in order to his making an enquiry into the manner and the causes of the death of the person so buried; and in case the body hath been so long deceased and endamaged by ill keeping, or lain so long buried that it cannot be known how it came by his death, the Coroner shall then make a record of the same, together with the names of the persons that buried and caused to be buried the dead body, and shall return the same into the next court of General Sessions and Goal Delivery to be holden for this Province, that so the persons offending in burying the dead body without first sending for the Coroner to view the same, may be fined at the said court over and above the forfeitures of the five pounds, as above mentioned.

A. D. 1706.

X. *And be it further enacted* by the authority aforesaid, That if any person in this Province shall be bit with a Rattle-Snake, and shall die suddenly and immediately of such bite, such death shall be deemed a violent and untimely death, and the Coroner shall have a view of such body, and make enquiry thereon as of any other body that came to any other violent or casual death.

A person dying by the bite of a rattle-snake, the Coroner to view the body.

XI. *And be it further enacted* by the authority aforesaid, That every Coroner of this Province, for that county for which he is appointed, shall be and is hereby impowered to serve and execute all writs and processes directed unto him against the Marshal of this Province, in that county wherein the Marshal dwelleth, and also in all causes wherein the Marshal is plaintiff, in that county where the plaintiff dwelleth, against whom such writs or other process is directed; and the Coroner shall have the like fees for serving of writs or other process in civil cases, as is allowed by the laws of this Province unto the Marshal.

Coroner to execute writs and processes.

XII. *And be it further enacted* by the authority aforesaid, That all the fines and forfeitures mentioned in this Act not exceeding the sum of forty shillings, shall be recovered, prosecuted, adjudged, levied and distrained by warrant from any one Justice of the Peace of this Province, as in the Act for the Trial of Small and Mean Causes is directed, and the same being so recovered, shall be paid to the Lords Receiver-General; and all the fines and forfeitures mentioned in this Act exceeding the sum of forty shillings, shall be sued for and recovered by the respective Coroner of the county, or any other person, by action of debt, suit, bill, plaint or information, in any court of record in this province, wherein no essoign, protection, privilege, injunction or wager of law, or stay of prosecution, shall be admitted and allowed, one half to the informer, and the other to be paid to the Lords Proprietors Receiver General.

The fines and forfeitures how recovered.

XIII. *And be it further enacted* by the authority aforesaid, That if any action, plaint, suit or information shall be commenced or prosecuted against any person or persons for what they shall do in pursuance or execution of this Act, such person or persons so sued may plead the general issue of not guilty, and upon issue joyned may give this Act and the special matter in evidence, and if the plaintiff or prosecutor shall become nonsuit, or suffer discontinuance, or if a verdict pass against him, the defendant shall recover their treble cost, for which they shall have the like remedy as in any case where costs by law are given to the defendants.

Persons sued may plead the general issue, and recover treble costs.

*Read three times, and ratified in open Assembly,
the 9th day of April, 1706.*

N. JOHNSON,
ROBERT GIBBES,
JAMES MOORE,
NICHOLAS TROTT,
HENRY NOBLE,
BENJ. BARONS.

A. D. 1706.

No. 251. AN ACT TO IMPOWER THE RIGHT HONOURABLE THE GOVERNOUR TO RESTRAIN PERSONS OFFENDING FROM GOING AMONGST THE INDIANS.

WHEREAS frequent complaint is made of manifold abuses and irregularities committed by our traders that live amongst the Indians, to the endangering the peace and tranquillity of this Province; Upon any such complaint or information against any person or persons trading or inhabiting amongst the Indians, of any misbehaviour or abuse committed or done to the Indians, or any way prejudicial to the peace and safety of this Colony, *Be it enacted* by his Excellency John Lord Granville, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of the said Province, and by the authority of the same, That the right honourable the Governour be impowered and he is hereby impowered by a warrant under his hand and seal, directed to such person or persons as he shall think fitting, requiring him or them to attach the body of such person or persons so offending, to appear before him, and upon examination, if he see cause, to make him or them give sufficient security not to go amongst the Indians untill the meeting of the Assembly, and that they then appear before the right honourable the Governour and the rest of the members of the General Assembly; and upon his or their refusal to give such security as shall be required, to commit him or them to goale, there to remain without bail or mainprize; and this Act to continue for the space of six months, or to the end of the next sessions of the General Assembly.

*Read three times and ratified in open Assembly,
this 9th day of April, 1706.*

N. JOHNSON,
ROBERT GIBBES,
JAMES MOORE,
NICHOLAS TROTT,
HENRY NOBLE,
BENJ. BARONS.

No. 252. AN ACT FOR THE SOONER AND MORE SECURE PAYMENT OF THE DEBTS OWING BY THE PUBLICK, AND FOR CONTINUING THE CURRENCY OF THE BILLS OF CREDITT, COMMONLY CALLED COUNTRY BILLS.

Preamble.

WE the Commons now met at Charlestown for the south-west part of this Province, having entered into a due and serious consideration of the great and extraordinary occasions which very many of the inhabitants of this Province lie under, for such debts as are due and belonging to them, and contracted by the publick for the necessary defence and security, thereof, and being desirous to find and provide supplies of money proportionable to the greatness of the occasions, do pray that it may be enacted,

And be it enacted, by his Excellency John Lord Granville, Palatine, and the rest of the true and absolute Lords and Proprietors of the said Province, by and with the advice and consent of the rest of the members of

the Generall Assembly now met at Charlestown, for the south-west part of the said Province, and by the authority of the same, That the sum of seven hundred and eighty-four pounds, five shillings and five pence half-penny, now actually remaining in the publick treasury, together with all such sum and sums of money and arrears whatsoever, behind, unpaid and outstanding, of all and every the taxes by any former Act of Assembly laid on all and every the inhabitants of this Province, and all and every the dues, duties and impositions hereafter payable by virtue of an Act for laying an Imposition on Furs, Skins, Liquors, &c. ratified in open Assembly the sixth day of May, one thousand seven hundred and three, (except so much thereof by virtue of another Act of Assembly entitled an Act to continue an Act for laying an Imposition on Furs, &c. and for appropriating the same, ratified in open Assembly the fourth day of November, one thousand seven hundred and four, is appropriated to and for the paying of the salaries to ministers of the Church of England — except also the sum of fifty pounds per annum more, to arise from the said impositions, for the payment of the salary of a Church of England minister, when appointed and established at Santee,) be set apart, and they are hereby set apart and intended and appropriated, for and towards the payment and satisfaction of all debts due and owing from and by the publick to any person or persons whatsoever, and to such other uses, intents and purposes as hereafter in this Act is limited and expressed, without being diverted, or divertible, or being misapplied, to any other use or uses whatsoever; any law, statute or ordinance, or any other matter or thing to the contrary hereof in any wise notwithstanding.

A. D. 1706.

Taxes, &c.
appropriated to
pay the public
debts.

II. *And be it enacted and declared* by the authority aforesaid, That it shall and may be lawful to and for the publick Receiver, and he is hereby impowered and required to allow and discount in payment of all or any of the taxes aforesaid, on which any person or persons shall or may be in arrears, and out of any duties or impositions which at any time hereafter shall become due and payable by virtue of the above recited Act, any sum or sums of money to the full value of what the publick may be in debt to him or them so in arrears or haveing duties or impositions to pay as aforesaid; and upon any surplus that may be coming to him or them from the publick taxes and duties being allowed, that then it shall and may be lawful, and the said Receiver is hereby required to discount and set off any other debts such person or persons is willing to pay for any other who is in arrears of his tax aforesaid, or indebted to the publick for duties and impositions, untill the full and whole of his or their debts be paid and satisfied; any law, statute or ordinance, or any other matter or thing to the contrary hereof in any wise notwithstanding.

Debts owing
by the publick
to be set off.

III. *Provided always, and it is hereby enacted*, That the interest due and payable on all or any of the taxes aforesaid, by force and virtue of any law or statute now in force in this Province, shall cease and determine from and after the tenth day of March last, to all intents and purposes whatsoever.

Interest not to
be allowed after
the 10th of
March last.

IV. *And be it further enacted* by the authority aforesaid, That all and every the sum and sums of money aforesaid shall be appropriated, issued and applied in manner hereafter following, that is to say: First, that such person or persons to whom the publick is indebted, and whom this present Assembly shall judge and nominate to be most in need of their money, and whose names shall be returned to the publick Receiver in a list signed by their Speaker by order of the House, shall be paid by the Receiver, and he is hereby required and impowered to pay all such sum and sums of money as are due to him or them from the publick, out of the sum of seven

Appropriation
of moneys.

A. D. 1706.

hundred and eighty-four pounds, five shillings and five pence halfpenny, above mentioned; and the residue and remainder of the said sum, together with the arrearages of the taxes and incomes on the duties and impositions aforesaid (except as before excepted) shall be appropriated, issued and applied for the payment of all such debts as are due and owing from the publick as aforesaid.

Order of
payment to be
determined by
ballot.

V. But forasmuch as there will not speedily come into the publick treasury so much money, arising from the taxes and impositions aforesaid, as will at once pay and discharge all such debts as are now due and owing, *Be it therefore enacted* by the authority aforesaid, That the residue of the names of the persons to whom the publick is indebted, and not returned to the Receiver as aforesaid, together with the sum of money the publick is in debt to such person, shall be distinctly writt upon and entered on several small pieces of paper or parchment, and in the presence of Nicholas Trott, Esq. Chief Justice, Col. James Risbee, Lieut. Col. William Rhett, Dr. Charles Burnham, Capt. Edward Loughton, and Mr. Lewis Pasquereau, or any three of them, at and upon the sixteenth day of this instant, April, by Thomas Hepworth, Clerk of the Assembly, put into the box appointed for the balloting of juries, and from thence publickly taken and drawn by a child under the age of ten years, in the presence of the said commissioners, or any three of them, who are hereby required to number the same as they are drawn forth, and the said clerk to enter and keep a fair account of such numbers, a copy whereof he shall keep in his office, another copy to return to the Receiver, and the number drawn to deliver to the person to whom it belongs, without fee or reward.

The Receiver
to pay in the
order aforesaid.

VI. *And be it enacted* by the authority aforesaid, That the publick Receiver shall and lawfully may and he is hereby required to pay out of the remaining part of the seven hundred and eighty-four pounds five shillings and five pence halfpenny, and the taxes and impositions aforesaid, (except as before excepted,) all and every person or persons in order according to the number signed to his name, without giving any undue preference, or makeing any distinction whatsoever, under the pain and penalty of forfeiting double the sum such person ought to have received as aforesaid, to be paid to the person grieved, and recovered in any court of record in this Province, by bill, plaint or information, in which no essoign, priviledge, protection or wager of law shall be admitted and allowed of.

Penalty.

Bills of credit
to pass current.

VII. And forasmuch as the currency of the said bills will very much contribute to the speedier payment of the debts aforesaid, *Be it therefore enacted* by the authority aforesaid, That all and every the bills of credit now outstanding and uncanceled, shall from and after the ratification of this Act pass and be currant, and they are hereby declared and enacted to be currant in all payments, at the full and certain price and value they are now at and no more, and be and continue and they are hereby continued in as full force and effect as they are, were, might or could be; and the counterfeiters and refusers thereof liable to the same forfeitures and penalties as are mentioned and contained in an Act entituled an Act for the Raising the Sum of Four Thousand Pounds, &c., made and ratified in open Assembly the eighth day of May, Anno Domini one thousand seven hundred and three, which Act is hereby continued in full force in all things which are not disagreeable to or inconsistent with the true intent and meaning of this Act.

Taxes received
to be applied to
taking up the
bills of credit,
with certain
payments
excepted.

VIII. *And be it further enacted* by the authority aforesaid, That the full three fourths of all and every the duties and impositions aforesaid, hereafter to be due, (the debts aforesaid being first paid as aforesaid; and

excepting so much of the said impositions as is already appropriated for the payment of Ministers, according to the true intent and meaning of the above recited Act, and excepting the yearly payment of fifty pounds to a Minister of the Church of England which may be settled at Santee, as aforesaid,) shall be appropriated, disposed and applied for and towards the sinking and discharging of the said bills of credit and every of them, without being diverted or divertible or misapplied to any other use or uses whatsoever; and the other fourth part to be disposed of by order of the General Assembly, for the contingent charges of this government.

A. D. 1706.

IX. *And be it enacted* by the authority aforesaid, That the public Receiver in case he misapply or appropriate any sum or sums of money aforesaid otherwise than according to the true intent and meaning of this Act, shall incur the same forfeitures and disabilities as he should have incurred for diverting or misapplying any sum or sums raised by any of the forementioned taxes, according to the several Acts of Assembly for that purpose made and ratified; and all other provisos, pains, penalties and forfeitures thereby enacted, are hereby enacted to be in force, and shall be practised, applied, executed and put in use for and concerning the distribution and applications of the said sums hereby appropriated, as fully, amply and effectually as if the same were here particularly repeated and re-enacted.

Receiver liable to penalties for misapplication of moneys received.

X. *And whereas*, by an Act entitled an Act for Raising the Sum of Four Thousand Pounds on the Real and Personall Estates, and of and from the Profits and Revenues of the Inhabitants of this Province, to pay and cancell the Bills of Credit now outstanding, ratified in open Assembly the fourth day of November, one thousand seven hundred and four, among other things therein contained, it is enacted that every person assessed and rated as aforesaid shall pay to the publick Receiver in Charlestown his assessment, on or before the ninth day of May, in the year of our Lord one thousand seven hundred and five, in Charlestown, as aforesaid; and in case any person shall neglect or refuse to pay his, her or their tax, at or within the respective time before limited and appointed, the publick Receiver is hereby required within twenty days after the day of payment respectively, to return the names of every person neglecting as aforesaid to the next Justice of the Peace, together with the account of the sum of money each person is assessed at, which Justice to whom return was made shall within five days after such return, by a warrant under his hand and seal directed to the constable, cause distress to be made on the goods and chattels of the persons against whom return as aforesaid was made, for value of what he was at that day to have paid, together with the charges of distraining, keeping, appraising and selling; and whereas the aforesaid clause will much interfere with the design and with the true intent and meaning of this Act, *Be it therefore enacted* by the authority aforesaid, That the publick Receiver, the Justices of the Peace and Constables aforesaid, are hereby required and directed not to put the said paragraph or clause of the said Act in execution till from and after the fourth day of July next after the ratification hereof; and they and every of them are hereby indemnified and saved harmless from and against all fines, forfeitures and penalties, for or by reason of the non-observance of the said clause of the Act aforesaid, untill the time aforesaid, any thing in the said Act contained to the contrary in any wise notwithstanding.

Clause of a former Act not to be enforced till after the 4th of July.

Read three times and ratified in open Assembly, April 9th, 1706.

HENRY NOBLE,
BENJ. BARONS.

N. JOHNSON,
ROBERT GIBBES,
JAMES MOORE,

NOTE.—The part of this Act relating to the currency of bills of credit, repealed by sect. 18 of the Act of July 5, 1707, on this subject. The other parts of this Act obsolete and expired. See the references to Act of July 5, 1707.

A. D. 1706.

No. 253.

AN ACT TO REVIVE THE SEVERALL ACTS WITHIN MENTIONED, AND TO REPEALE A CLAUSE IN AN ACT FOR THE RAISING A PUBLICK STORE OF POWDER, RATIFIED THE EIGHTH DAY OF OCTOBER, ONE THOUSAND SIX HUNDRED AND NINETY-EIGHT.

See note at the
end of the Act
for a summary

WHEREAS, divers of our temporary laws, which by experience have been found usefull and beneficiall, are expired ; therefore, for reviving of the same, *Be it enacted* by his Excellency John Lord Grauville, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, and by the authority of the same, That an Act entituled an Act for the Entry of Vessels, ratified in open Assembly, the eighth day of October, one thousand six hundred and ninety-eight; and an Act entituled an Act for ascertaining Publick Officers' Fees, ratified in open Assembly the eighth day of October, one thousand six hundred and ninety-eight; and an Act entituled an Act Inhibiting the Trading with Servants and Slaves, ratified in open Assembly the sixteenth day of March, 1695; and an Act entituled an Act to prevent Marriners and Seamen running into debt, ratified in open Assembly the sixteenth day of March, one thousand six hundred and ninety-five; and an Act entituled an Act to raise the Currant Coyne, and for the Promoting the Currancy of Heavy Money, ratified in open Assembly the first day of March, one thousand seven hundred; and an Act entituled an Act for the prevention of Runaways deserting this Government, ratified in open Assembly the first day of March, one thousand seven hundred; and an Additional Act for the Mending of Highways, ratified in open Assembly the third day of February, one thousand seven hundred one and two; and an Act entituled an Act to prevent abuses by false Weights and Measures, with a clause to prevent the scarcity of Salt, ratified in open Assembly the third day of February, one thousand seven hundred one and two; and an Act entituled an Act for the raising a Publick Store of Powder for the defence of this Province, ratified in open Assembly the eighth day of October, one thousand six hundred and ninety-eight, except the paragraph relating to the Post Office, mentioned in the said Act; and an additional Act to an Act for raising a Publick Store of Powder, &c., ratified in open Assembly the eighth day of May, one thousand seven hundred and three; and an Act entituled an Act for taking up and killing wild, unmarked and out-lying Cattle, ratified in open Assembly the seventeenth day of September, one thousand seven hundred and three; and an Act entituled an Act to prevent the sale of Leather not sufficiently Tanned, and the regulateing the prices of Shoes, ratified in open Assembly the seventeenth day of September, one thousand seven hundred and three; and an Act entituled an Act for the better settling and regulateing the Militia, and appointing Look-outs, ratified in open Assembly, the eighth day of May, one thousand seven hundred and three; and an Act entituled an Act to erect a General Post Office, ratified in open Assembly the seventeenth day of September, one thousand seven hundred and three; and an Act entituled an Act for the Tryall of Small and Mean Causes, ratified in open Assembly the fifteenth day of October, one thousand six hundred and ninety-two; and an Act entituled an Act for the better settling of Pilotage, ratified in open Assembly the tenth day of September, one thousand seven hundred and two; are hereby declared revived and enacted to be in force for and during the full terme and time of six months from and after the ratification of this Act, and from thence to the end of the next sessions of the General Assembly after,

and no longer, any limitation in the before recited Acts contained to the contrary in any wise notwithstanding.

A. D. 1706.

II. *Whereas*, in the Act entituled an Act for the better settling of Pilotage, ratified in open Assembly the tenth day of September, one thousand seven hundred and two, part of the Commissioners being dead, and the remainder not being able to act for want of others in their room; *Be it enacted*, That Colonel James Risbee, Lieutenant Colonel William Rhett, Lieutenant Colonel George Logan, Major Alexander Parris and Mr. Lewis Pasquereau, or any three of them, be Commissioners, and they, or any three of them, are hereby impowered under the hand and seal, or the hands and seals of any three of them, to commissionate and make all such pilotts, and if need be, the same to displace and turn out, and moreover, to give all such orders and directions to the pilotts from time to time, as in the fore recited Act they are impowered and required to perform, any thing in the said Act to the contrary notwithstanding.

III. *And be it further enacted* by the authority aforesaid, That the clause or paragraph relating to the post office, in an Act entituled an Act for the raiseing a Publick Store of Powder for the defence of this Province, ratified in open Assembly the eighth day of October, 1698, is hereby declared repealed, revoked, disannulled and made void forever, any limitation in the said Act contained to the contrary in any wise notwithstanding.

IV. *And whereas*, by an additional Act intituled an Act for makeing and mending Highways, made and ratified in open Assembly the first day of March, 1700-1, amongst other things therein contained, it is enacted that Biggin creek, with all convenient speed within eighteen months, be cleared of growing, standing and lying trees, so that the said creek be made passable for boats and canoes of two tuns and upwards, from the landing of Mr. James Lobas up the said creek so high as the plantation of Christopher Walker, at the equal charge and labour of all male persons living on both sides the said creek from the house of Mr. James Lobas, inclusive, to the house of Mr. John Balk inclusive. *And whereas*, divers of the inhabitants on or near the said creek have petitioned that by reason of the sickness and carelessness of the Commissioners named and appointed in and by the said Act, the said creek has not been cleared as aforesaid, and therefore pray that they may have time for eighteen months longer; *Be it therefore enacted* by the authority aforesaid, That the clause or paragraph of the said Act is hereby revived and shall be revived for the time and space of eighteen months from and after the ratification of this Act for and during the full term and time of eighteen months, any thing in the said Act, or in this present Act, contained to the contrary in any wise notwithstanding.

Read three times, and ratified in open Assembly, April 9th, 1706.

N. JOHNSON,
ROBERT GIBBES,
JAMES MOORE,

NICHOLAS TROTT,
HENRY NOBLE,
BENJ. BARONS.

NOTE.—The Act, of which a clause is repealed, is No. 166, Sect. 11. The Acts 88, 135, 136, 164, 165 and 166, (excepting Sect. 11, relating to the Post Office, which is repealed, see Sec. 3.) The Act of March 1, 1700-1, relating to the Current Coin. The Act of the same date concerning Runaways. The Act of Feb. 3, 1701-2, concerning, Highways. The Act of same date to prevent abuses by false Weights and Measures. The Act of Sep. 10, 1702, for the better settling of Pilotage. The Act of May 8, 1703, concerning the Militia. The Act of same date for raising a publick store of Powder. The Act of Sep. 17, 1703, to erect a General Post Office. The Act of same date for taking up and killing unmarked Cattle. The Act of same date to prevent the sale of Leather not well tanned—are by the present Act revived and continued for six months. Additions are hereby made to the Act about Pilotage of Sep. 10, 1702, Sec. 15. Obsolete. The 11th Section of Act No. 166, relating to the Post Office, repealed. To the Act No. 173, Sec. 6, eighteen months longer are allowed for the clearing of Biggin's Creek. Expired.

In the preceding note taken from Trott's Laws, p. 127, I have designated the Acts by numbers so far as he agrees in that respect with the numbering of the originals. Where there is variance, I substitute the dates in lieu of his numbers.

A. D. 1704.

No. 254. *AN Explanatory and Additional ACT* TO AN ACT INTITULED AN ACT FOR LAYING AN IMPOSITION ON FURRS, SKINS, LIQUORS, AND OTHER GOODS AND MERCHANTIZE, IMPORTED INTO AND EXPORTED OUT OF THIS PART OF THIS PROVINCE, FOR THE RAISING OF A FUND OF MONEY TOWARDS THE DEFRAYING THE PUBLICK CHARGES AND EXPENCES OF THIS PROVINCE AND PAYING THE DEBTS DUE FOR THE EXPEDITION AGAINST ST. AUGUSTINE, RATIFIED IN OPEN ASSEMBLY THE SIXTH DAY OF MAY, 1703.

Preamble.

WHEREAS some differences and disputes have lately arisen upon the interpretation of the aforesaid Act; for the explanation and remedying the said doubts and difficulties,

The duty of
20s. per head
on slaves, in
what cases not
to be paid.

Be it enacted by His Excellency John Lord Granville, Pallatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the Generall Assembly, now met at Charlestown, for the south-west part of this Province, and by the authority of the same, That the duty of twenty shillings a head laid and imposed on every negro or slave (children under eight years old excepted) imported from the West Indies or any other part or place, (Africa excepted,) and ten shillings per head on all negro slaves (children under eight years old excepted) imported into this Province from Africa, in the same vessel in which they were shipped, be laid and imposed upon such negro or negroes, slave or slaves, that shall be imported into this Province for sale and merchandize only. *Provided* always, and it is the true intent and meaning of the said Act, that if it should happen that any person or persons whatsoever, living in this part of this Province, shall send for any negro or negroes, slave or slaves, for his, her or their respective use, or any person or persons whatsoever that shall transport themselves with their negro or negroes, slave or slaves, into this part of this Province with an intent to settle, that then and in such case, all such person or persons whatsoever shall enter the number of his, her or their slave or slaves, so imported, with the Comptrouler, who at the time of such entry is hereby required and impowered to administer an oath to the importer or importers, owner or owners thereof, that if in case he, she or they so importing any negro or negroes, slave or slaves, shall sell his, her or their negro or negroes, slave or slaves, or any part or number of them, within twelve months after his, her or their arrival into this part of this Province, that then, and not otherwise, he, she or they shall pay or cause to be paid to the publick Receiver the said sum of twenty shillings per head for each and every slave (children under eight years old excepted) so imported from the West Indies or any other part, (Africa excepted,) and ten shillings per head for each and every slave (children under eight years old excepted) imported from Africa and sold as aforesaid; any thing in the aforesaid Act or any other Act to the contrary contained in any wise notwithstanding.

*Read three times, and ratified, in open Assembly,
the 9th day of April, Anno Dom. 1706.*

N. JOHNSON,
ROBERT GIBBES,
JAMES MOORE,

NICHOLAS TROTT,
HENRY NOBLE,
BENJ. BARONS.

NOTE.—Repealed. The preceding Act is also inserted among the Acts relating to the coloured population, in the concluding volume. Being a Taxation Act, for public purposes, it is inserted here.

A. D. 1706.

AN ACT TO REPEAL THE SEVERAL ACTS WITHIN MENTIONED.

No. 255.

(The original of this Act not now to be found. The following is copied from Trott's Laws, p. 127.)

BE IT ENACTED by His Excellency John Lord Granville, Pallatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the Members of the General Assembly, now met at Charlestown for the south and west part of this Province, and by the authority aforesaid, That one Act of Assembly of this Province, entituled an Act for the more effectual preservation of the Government of this Province, by requiring all Persons that shall hereafter be chosen Members of the Commons House of Assembly, and sit in the same, to take the Oaths and subscribe the Declaration appointed by this Act, and to conform to the Religious Worship in this Province, according to the Church of England, and to receive the Sacrament of the Lord's Supper according to the rites and usage of the said Church, ratified in open Assembly the sixth day of May, Anno Dom. one thousand seven hundred and four: And one other Act of Assembly of this Province, entituled an Act to settle a Maintenance on a Minister of the Church of England in Charlestown, ratified in open Assembly the eighth day of October, one thousand six hundred and ninety-eight: And one other Act of Assembly of this Province, entituled, an Act for the Establishment of Religious Worship in this Province, according to the Church of England, and for the Erecting of Churches for the publick Worship of God, and also for the Maintenance of Ministers, and the building convenient Houses for them, ratified in open Assembly the fourth day of November, one thousand seven hundred and four: And one other Act of Assembly of this Province, entituled an Additional Act to an Act entituled an Act for the Establishment of Religious Worship in this Province according to the Church of England, and for the Erecting of Churches for the Publick Worship of God, and also for the Maintenance of Ministers, and the building convenient Houses for them, ratified in open Assembly the seventeenth day of February, one thousand seven hundred four and five: And also one other Act of Assembly of this Province, entituled an Act to erect the French Settlement on Santee into a Parish, ratified in open Assembly the day of April, Anno Dom. one thousand seven hundred and six—from henceforth be Repealed; And it is hereby enacted and declared, That all and singular the said Acts of Assembly above mentioned, and every branch, clause, article or sentence contained in the said Acts, and all and every word, matter and thing contained in the same, be from henceforth repealed, annulled, revoked and forever made void, any thing in the said Acts to the contrary whatsoever in any wise notwithstanding.

No. 232.

No. 159.

No. 225.

No. 241.

No. 248.

Read three times, and ratified in open Assembly,
November 30, 1706.

N. JOHNSON,
THO. BROUGHTON,
NICHOLAS TROTT,
HENRY NOBLE.

A.D. 1796.

The Lords
Proprietors
ratification of
the Repealing
Act.

His Excellency JOHN Lord GRANVILLE, Palatine, the Right Hon. WILLIAM Lord CRAVEN, the Rt. Hon. JOHN Lord CARTERET, the Honourable MAURICE ASHLEY, Esq. Sir JOHN COLLETON, Baronet, JOHN ARCHDALE, Esq., and the rest of the true and absolute Lords and Proprietors of Carolina,

To all to whom it may Concern, send Greeting.

WHEREAS the following Act, entituled, *An Act to Repeal the Several Acts within mentioned*, was read three times and ratified and passed in open Assembly at South Carolina, the thirtieth day of November, one thousand seven hundred and six, and signed and sealed by the Honourable Sir Nathaniel Johnson, Kt. as Governour, Thomas Broughton, Nicholas Trott and Henry Noble, Esqrs. as our Deputies, viz.

Be it enacted by his Excellency John Lord Granville, Palatine, and the rest, &c.

We the said Palatine and Lords Proprietors aforesaid, do hereby approve of, finally enact, ratify and confirm this present Act, entituled as aforesaid, *An Act to Repeal the several Acts within mentioned*, and the said Act is hereby finally enacted, ratified and confirmed. Given at St. James's, under our hands and the Great Seal of our Province, this 27th day of February, Anno Dom. one thousand seven hundred six and seven.

GRANVILLE. PALATINE,
GRANVILLE FOR LORD CARTARET,
JO. ARCHDALE.
CRAVEN,
M. ASHLEY,
M. ASHLEY FOR JOS. BLAKE.
J. COLLETON,

{ *Magnum* }
{ *Sigillum* }

By Command of his Excellency the Lord Palatine
and Lords Proprietors.

JAMES GRIFFITHS, Secr.

No. 256. AN ACT FOR THE ESTABLISHMENT OF RELIGIOUS WORSHIP IN THIS PROVINCE, ACCORDING TO THE CHURCH OF ENGLAND, AND FOR THE ERECTING OF CHURCHES FOR THE PUBLICK WORSHIP OF GOD, AND ALSO FOR THE MAINTENANCE OF MINISTERS AND THE BUILDING CONVENIENT HOUSES FOR THEM.

Preamble.

FORASMUCH as in a well grounded Christian commonwealth matters concerning religion and the honour of God ought in the first place to be taken into consideration, and honest endeavours to attain to such good ends countenanced and encouraged, as being not only most acceptable to God, but the best way and means to obtain his mercy and a blessing upon a people and country;

Be it therefore enacted, by his Excellency John Lord Granville, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, and by the authority of the same, That the Book of Common Prayer, and administration of the Sacraments, and other rites and ceremonies of the Church, according to the use of the Church of England, the Psalter or Psalms of David, and Morning and Evening

That the Book
of Common
Prayer be
established in
this Province.

Prayer therein contained, be solemnly read by all and every Minister or Reader in every Church which now is or hereafter shall be settled and by law established within this Province; and that all congregations and places for the publick worship, according to the usage of the Church of England, within this Province, for the maintenance of whose ministers and the persons officiating therein, any certain income or revenue is, or shall by the laws of this Province be established and enjoined to be raised or paid, shall be deemed Settled and Established Churches.

A. D. 1706.

II. *And whereas*, it is necessary and for the better accommodation and conveniency of the inhabitants of this Province that the same be divided into parishes, and the bounds of the several parishes ascertained, *Be it therefore enacted* by the authority aforesaid, That Charlestown, and the Neck between Cooper and Ashley rivers, as far up the Neck as the plantation of John Bird, Gent., on Cooper river, inclusive, and the plantation of Christopher Smith, Esq. on Ashley river, inclusive, is and shall for ever be a distinct parish of itself, and be called by the name of the Parish of St. Philip's, in Charlestown.

The Province divided into ten parishes.

III. *And be it further enacted* by the authority aforesaid, That Berkley county shall be divided into six more parishes besides Charlestown, that is to say, one upon the South-east of Wandoe river, which shall be called by the name of the parish of Christ Church; one upon that neck of land lying on the North-west of Wandoe, and South-east of Cooper river, which shall be called by the name of St. Thomas; one upon the Western branch of Cooper river, which shall be called by the name of St. John's; one upon Goose creek, which shall be called by the name of St. James Goose creek; one upon Ashley River, which shall be called by the name of St. Andrews; and one in the Orange quarter for the use of the French Settlement there, which shall be called by the name of the parish of St. Dennis.

Berkley county divided into six more Parishes.

IV. *And be it further enacted* by the authority aforesaid, That Colleton county shall be divided into two parishes, that is to say, one on the South side of Stono River, to extend to the North side of South Edisto, which shall be called by the name of St. Paul's; and the other on the North of St. Helen's, which shall be called by the name of St. Bartholomew.

Colleton county divided into two parishes.

V. *And be it further enacted* by the authority aforesaid, That one parish shall be erected in Craven county, in that part of it which is commonly known by the name of the French Settlement on Santee River; and the Church which is now built in Jamestown, in the said settlement, or any new church hereafter to be built or erected in the said place instead thereof, is hereby made, erected and declared to be the parish church of St. James on Santee River, and shall be and so continue forever, in all things as the other parishes erected in this Province are or ought to be.

Craven county one Parish.

VI. *And whereas*, it was thought necessary that six churches should be built for the publick worship of God, according to the Church of England; that is to say, one upon the South-east of Wandoe river, one upon that neck of land lying on the North-west of Wandoe, and South of Cooper river, one upon the Western branch of Cooper river, one upon Goose creek, one upon Ashley river, and one on the South side of Stono river in Colleton county, and six several messuages or tenements to be built upon the several parcels of land allotted for a glebe for the said parishes; *And whereas*, in order to defray the charges of the building of the said six churches, and the said six messuages or tenements, and also for the purchasing of lands for the several sites of the several churches, and the cemetaries or church-yards for the burial of christian people, and also the glebe lands for the several places above mentioned, for the use of the

Six Churches and six houses for the several rectors of the parishes ordered to be built, and £2000 appropriated to defray the charges thereof.

A. D. 1706.

rectors or ministers of the several parishes, by one act of Assembly in this Province, intituled an Act to continue an Act entituled an Act for laying an Imposition on Skins and Furs, and for appropriating the same, ratified in open Assembly the fourth day of November, seventeen hundred and four, amongst other things it was enacted, that two thousand pounds of the money which by the said Act should be raised after the ninth day of May next ensuing the ratification thereof, should be equally divided to the building the said six churches, and convenient tenements and out-houses for the several rectors or ministers, as before mentioned; *Be it therefore enacted* by the authority aforesaid, That if any part of the said sum of two thousand pounds is behind and unpaid, that the same shall be paid to the Commissioners hereafter named, or to such supervisors as they shall appoint, in order to defray the charges of the building of such churches and tenements, as are not already finished, or not begun to be built.

Commissioners
to appoint
supervisors.

VII. *And be it further enacted* by the authority aforesaid, That in case any church or churches, or tenement or tenements, which are for the several rectors or ministers of the said several parishes, be not already begun to be finished, that then, and in such case, it shall be lawful for the Commissioners hereafter named, to appoint one or more persons, inhabitants of the parishes, in the several places where the church or churches, or house or houses for the several rectors or ministers are to be built, to be supervisors for the building of the said several churches, and the inclosing the several cœmetaries or church-yards, and the several buildings to be built on the said glebe or glebes; the place or places in the parishes aforesaid, where the church or churches, or the buildings on the glebe or glebes, is not begun or fixed upon, the same shall be in such place or places, in the precinct or parishes aforesaid, as shall be agreed upon by the majority of the Commissioners hereafter named, and by and with the advice and consent of the major part of the inhabitants of the said precincts or parishes, who are of the profession of the Church of England.

Commissioners
impowered to
take a grant of
lands for the
several sites of
the several
churches and
church-yards,

VIII. *And be it further enacted* by the authority aforesaid, That the Commissioners hereafter named shall have power to take up by grant from the Lords Proprietors, or purchase the same from them, or any other person, and have, take and receive so much land as they shall think necessary for the several sites of the said several churches, and the cœmetaries or church yards, for the burial of christian people there, in the several places above mentioned, and shall also direct and appoint the building of the said several churches, not already built, according to such dimensions, and of such materials as they shall think fitting, and also the pulpit, desk and pews in the said several churches, and also the inclosing the several cœmetaries or church-yards.

And for the
several glebes;
and upon each
of the glebes to
order the
building a
house for the
rector.

IX. *And be it further enacted* by the authority aforesaid, That the Commissioners hereafter named shall have power to take up by grant from the Lords Proprietors, or purchase, have, take or receive the same from them or any other person, so much land as they shall think fitting for the several glebes above mentioned, and in such places as they shall think convenient; and upon each of the said glebes shall order and appoint the building (where not already built) of one messuage or tenement for a dwelling house for the rector or minister, together with convenient out-houses, according to such dimensions, and of such materials as they shall think fitting.

One other
parish
constituted in
Colleton
county.

X. *And whereas*, by this Act it is appointed, that one parish be constituted in Colleton county, on the north side of St. Helena, called St. Bartholomew; *And whereas*, it is necessary that one church should be

built for the publick worship of God, according to the Church of England, that is to say, at the north side of St. Helens, the said church to be built in such place in the precinct or parish above named, as shall be agreed on by the majority of the Commissioners hereafter named, by and with the advice and consent of the major part of the inhabitants of the said precinct or parish, who are of the profession of the Church of England. *Be it therefore enacted* by the authority aforesaid, that the Commissioners hereafter named shall have power to take up by grant from the Lords Proprietors, or purchase the same from them or any other person, and have, take and receive so much land as they shall think necessary for the site of the said church, and the cœmetary or church-yard for the burial of christian people there, in the place above mentioned, and shall also direct and appoint the building of the said church according to such dimensions and of such materials as they shall think fitting, and also the pulpit, desk and pews in the said church, and also the inclosing the said cœmetary or church-yard.

A. D. 1706.

Commissioners
impowered to
take a grant of
land for the site
of the said
church and
church-yard.

XI. *And whereas*, it is necessary that there be one messuage or tenement built, and one parcel of land allotted for a glebe for the said rector or minister of the said parish or precinct last mentioned; *Be it therefore enacted* by the authority aforesaid, That the Commissioners hereafter named, shall have power to take up by grant from the Lords Proprietors of this Province, or purchase, have, take and receive the same from them or any other person, so much land as they shall think fit for the said glebe, and in such place as they shall think convenient, and upon the said glebe shall order and appoint the building of one messuage or tenement for a dwelling house for the said rector or minister, together with convenient out-houses, according to such dimensions and of such materials as they shall think fitting.

And lands for
the glebe.

XII. And in order to defray the charges of the said tract of land, and the building the said church, and inclosing the said cœmetary or church-yard, and the said tract of land for the glebe, and the building the said messuage or tenement and convenient out-houses on the same for the use of the rector or minister of the said parish, *Be it enacted* by the authority aforesaid, That the Commissioners hereafter named, or the major part of them, shall be enabled to have, take and receive all such sum and sums of money as any charitable and well disposed christians shall freely and voluntarily give towards the building the said church and inclosing the said cœmetary or church-yard; and shall also have power to nominate and appoint one or more persons, inhabitants of the said parish, in the place where the said church is to be built, to be supervisors for the building of the said church, and the incloseing the said cœmetary or church-yard, and the buildings that are to be upon the said glebe; and in order to defray the charges thereof, the said Commissioners shall have power to draw out of the publick Treasury of this Province, which the publick Receiver thereof is hereby required to pay unto them, the full and just sum of three hundred thirty-three pounds six shillings and eight pence, currant money of this Province.

To receive all
charitable gifts,
appoint
supervisors,
and draw out
of the publick
Treasury.

XIII. *And be it further enacted* by the authority aforesaid, That the church situate in Charlestown aforesaid, and the ground thereunto adjoining, inclosed and used for a cœmetary or church yard, shall be the church and church-yard of St. Philip's in Charlestown; and the several churches already built, or to be built in the several parishes of this Province, mentioned in this Act, together with the cœmetaries or church yards already inclosed, or to be inclosed, shall be the church and church yards for the several parishes mentioned in this Act; and the said several churches and

The church
and church-
yard in
Charlestown
shall be the
parish church
of St. Philip's
Charlestown.

A. D. 1706.

church yards are hereby enacted and declared to be forever separated and dedicated to the service of God, and to be appointed therein to the use of the inhabitants from time to time inhabiting and to inhabit in the several parishes that are of the religion and profession of the Church of England, and conforme to the same.

Rectors for
each of the
several
parishes.

XIV. And for the encouragement of faithful ministers labouring in the work of the gospel, to come and reside in this Province, *Be it enacted* by the authority aforesaid, that there shall be a rector or minister for each of the several parishes mentioned in this Act, to have care of the souls of the inhabitants of the several parishes, and a perpetual succession of rectors there, to be elected, nominated and appointed, as hereafter is directed in this Act.

Their
enjoyments.

XV. *And be it further enacted* by the authority aforesaid, That the rectors or ministers of the several parishes of this Province, mentioned in this Act, that at any time after the ratification of this Act, shall, according to the direction of this Act, be elected, nominated and appointed rectors or ministers of the several parishes, and their successors, rectors of the said several parishes, shall be incorporate, and each of them shall have capacity and succession, by the name of the rector of that parish of which he is the minister, and shall be hereby enabled to sue and be sued by that name, in all Courts and places in this Province, and shall have the care of the souls of the inhabitants within the parish committed to his charge; and the rectors and ministers of the several parishes shall have and enjoy, to them and their successors, the several glebe lands already obtained or appointed, or to be hereafter obtained and appointed pursuant to this Act, and the several messuages or tenements for their several habitations, together with all the out-houses and buildings already erected, or to be erected, on the said several glebe lands, excepting one room in Charlestown parsonage-house, reserved for the Provincial Library, and which is hereby appropriated for that use; and the rectors or ministers of the several parishes shall have and enjoy to them and their successors, all such negroes and their increase as have been already purchased, given and allotted, or that shall be hereafter purchased, given and allotted to any of the several parishes by the Society founded by Royal Charter in the Kingdom of England, by the name of the Society for the Propagation of the Gospel in Foreign Parts, or by any other charitable disposed persons; and shall also enjoy all such cattle and their increase, as hath been already purchased, given and allotted, or shall be hereafter purchased, given and allotted to any of the several parishes.

The rector of
St. Philip's to
receive 150*l.*
per annum.

XVI. *And be it further enacted* by the authority aforesaid, That the rector or minister of the parish of St. Philip's in Charlestown, that at any time after the ratification of this Act, shall, according to the direction of this Act, be elected, nominated and appointed rector or minister of the said parish, and his successors, shall have and receive from the publick Receiver, for the time being, who is hereby required to pay the same, the full and just sum of one hundred and fifty pounds per annum, current money of this Province, to be paid him half yearly.

The several
other rectors of
the other
parishes 50*l.*
per annum for
three years.

XVII. *And be it further enacted* by the authority aforesaid, That the several rectors or ministers of the other parishes mentioned in this Act, that at any time after the ratification of this Act, shall, according to the direction of this Act, be elected, nominated and appointed rectors or ministers of the said several parishes, and their successors, shall each of them have and receive from the publick Receiver, for the time being, who is hereby required to pay the same, the full and just sum of fifty pounds per annum, current money of this Province, to be paid to them half yearly, for and during the term of three years after the ratification of this Act.

XVIII. *And be it further enacted* by the authority aforesaid, That three years after the ratification of this Act, as aforesaid, the said several rectors or ministers of the said several parishes, and their successors, shall each of them have and receive from the publick Receiver, for the time being, who is hereby required to pay the same, the full and just sum of one hundred pounds per annum, current money of this Province, to be paid to them half yearly, excepting the parish of St. Dennis for the French Settlement in Orange Quarter, the rector or minister of which parish shall be allowed but fifty pounds per annum, which shall be paid to him and his successors forever.

A. D. 1706.

And after the term of three years 100l. per annum, excepting the rector of St. Dennis, who shall be allowed but 50l per annum.

XIX. *And be it further enacted* by the authority aforesaid, That if it shall happen, that for any urgent and necessitous reason, all the money in the public treasury should be disposed of for other uses, so as that there should not be left sufficient in the publick Receiver's hands, to pay the said sum of one hundred and fifty pounds to the rector or minister of the parish of St. Philip's, Charlestown, and the several sums to the several rectors or ministers of the other parishes, according to the times before appointed, then, and in such case, the commissioners hereafter named, or the major part of them, that shall meet upon publick notice, as hereafter in this Act is directed, shall order the publick Receiver to pay the same, as soon and as often as any publick moneys shall come into his hands. But if the commissioners, or the major part of them, as aforesaid, shall have reason to believe that money will not come into the Receiver's hands in such time as the same ought to be paid in, that then and in such case, the commissioners hereafter named, or the major part of them, so met as aforesaid, shall have power, and they are hereby impowered, to cause the said sum of one hundred and fifty pounds, for the rector or minister of the parish of St. Philip's in Charlestown, and also the several sums for all or any the rectors or ministers in the other parishes of this Province, mentioned in this Act, to be assessed and levied by any two or more freeholders of the several parishes; which freeholders, so ordered and appointed by them, are hereby required and commanded, upon their oaths, to assess and levy any the aforesaid sums, of one hundred and fifty pounds, upon all and singular the inhabitants of Charlestown and the adjacent parts, within the limits aforesaid, and also the several sums, as by this Act directed, upon all and singular the inhabitants of the other parishes, equally and indifferently, according to the several estates, stocks and abilities of the several inhabitants. And the said commissioners, hereafter named, or any three or more of them, by their warrant, under their several hands and seals, directed unto any of the constables belonging to any of the particular parishes aforesaid, shall order the sum or sums of money so assessed, to be collected from the said several inhabitants; and in case of refusal to pay, the same to be levied by distress and sale of the offender's goods, returning the overplus, after reasonable charges deducted. And the several constables of this Province are hereby required to execute such warrants from the said commissioners, upon the penalty of the forfeiture of fifty pounds for every neglect, to be recovered and disposed of as hereafter is directed in this Act.

Receiver to pay the same, as soon as the money comes into his hands.

XX. *And be it further enacted* by the authority aforesaid, That the several rectors or ministers of the several parishes mentioned in this Act, shall have and receive all such fees and perquisites arising within their several parishes, as are of right due to any rectors or ministers by the laws and customs of this Province.

The Rectors to have all fees and perquisites of right their due.

XXI. *And be it further enacted* by the authority aforesaid, That the rectors or ministers of the several parishes, that shall be qualified and have

A. D. 1706.

The Rectors to be chosen by the inhabitants that are of the Church of England.

right to receive the publick moneys, required to be paid to them by this Act, shall, after the ratification of this Act, be chosen by the major part of the inhabitants of the severall parishes, that are of the religion of the Church of England and do conform to the same, and that are either freeholders within the said several parishes, or that contribute to the publick taxes and charges thereof; or such of them as shall think fit to attend and repair to their respective parish churches, or other publick place appointed, upon a meeting ordered by the commissioners hereafter named, or the major part of them, of which publick notice shall be given, at least ten days before the time of such meeting appointed as aforesaid.

The French Translation of the Common Prayer to be used in the parishes of St. Dennis and St. James, and how long.

XXII. *Whereas*, the far greater part, if not all, of the inhabitants belonging to the parish of St. Dennis, in Orange Quarter, and also the inhabitants belonging to the parish of St. James, on Santee river, were born in the kingdom of France, and have not the advantage to understand the English tongue, so as to receive any benefit or edification if the divine service, prayers and sermons were performed in the English tongue; *Be it therefore enacted* by the authority aforesaid, That it shall and may be lawful for the rectors or ministers of the said parishes, during such time and as long as the major part of the inhabitants of the said parishes shall think fit and convenient, to perform and read the common prayers, and to administer the sacraments, and to use all the other rites and ceremonies according to the use of the church of England, as also all other proper prayers and sermons in the French tongue, and no longer. *Provided* always, that they use the translation of the said book of common prayers, &c. which was translated into the said French tongue by Dr. John Durrell, by the express command and order of his late Majesty King Charles Second, for the use of his Majesty's Chapel of the Savoy and his Islands of Jersey and Guernsey, and such other parts of his said Majesty's dominions as should want the same; which translation was, with the approbation of the Lord Bishop of London, by his said Majesty's order, ordered to be set forth, and no other.

Names of the commissioners

XXIII. *And be it further enacted* by the authority aforesaid, That the Right Honourable Sir Nathaniel Johnson, Knt., the Honourable Thomas Broughton, Esq., Nicholas Trott, Esq., Col. Robert Gibbes, Henry Noble, Esq., Ralph Izard, Esq., Col. James Risbee, Lieut. Col. William Rhett, Lieut. Col. George Logan, Mr. Arthur Middleton, Capt. David Davis, Mr. Thomas Barton, Mr. John Abraham Motte, Capt. Robert Seabrook, Mr. Hugh Hicks, Mr. John Woodward, Mr. Joseph Page, John Ashby, Esq., Richard Beresford, Esq., Mr. Thomas Wilkinson, Capt. Jonathan Fitch, Mr. William Bull, Mr. Rene Ravenel, and Mr. Philip Gendron, or the major part of them, who shall meet upon publick summons, as is hereafter directed by this Act—provided the persons that meet are not less than eleven—be and are hereby nominated and appointed to be the Commissioners mentioned in this Act, and to exercise all the authorities and powers given them as commissioners by this Act, in the several parts thereof. And in case of the death, absence or resignation of the said commissioners, the remaining commissioners, or so many of them as will meet, (provided they exceed the number of ten,) being summoned at least six days before they meet, at some convenient place appointed for that purpose, such commissioners as shall so meet upon such summons, or the major part of them, shall and may choose a person or persons, of the profession of the church of England, to be commissioner or commissioners in the room of such person or persons dead, gone off, or resigning, as to them shall seem meet; which persons so choosen shall and are hereby

declared to be commissioners for this Act, as fully and amply as if they had by name been mentioned in this Act. A. D. 1706.

XXIV. *And be it further enacted* by the authority aforesaid, That it shall and may be lawful for the commissioners of this Act to meet to transact the business of this Act twice in the year, that is to say, on the second Tuesday in January and on the second Tuesday in July, at the church at Charlestown, without any notice or warning to be given thereof, and oftener if occasion shall require it, upon publick notice thereof, or summons signed by the Governour, six days before such meeting, appointing a convenient time and place; or in case the Governour shall refuse to issue out such summons upon the application of any three commissioners to him for the same, that then it may be lawful for the said three commissioners, or any other three commissioners of this Act, to issue out their summons, appointing the time and place of the meeting of the commissioners; and so many of them as shall meet by virtue of such summons, provided they are not less than eleven, and the majority of them eleven consenting, may put in force and execution any of the powers granted to the commissioners by this Act. When the commissioners are to meet.

XXV. *And be it further enacted* by the authority aforesaid, That the commissioners before named, or the major part of them, shall, and hereby are authorized and impowered, by an order under their hands, to draw out of the public treasury such sum or sums of money as shall by them, or the major part of them, be estimated a convenient salary to their clerk, the same to be continued to him untill all the churches and houses, and all other the buildings mentioned in this Act, shall be finished, and to make him convenient allowance for pen, ink and paper and other necessary expenses to be made in and about the execution of this Act. Commissioners' clerk to be paid out of public treasury.

XXVI. And to prevent all illegal and unlawful marriages, not allowed by the Church of England, but forbidden by the table of marriage, *Be it enacted* by the authority aforesaid, That no minister in this Province, knowing the same, shall presume to join together in marriage any persons whatsoever contrary to the table of marriages, by this Act appointed to be set up in every parish church within this Province, under the penalty of one hundred pounds; nor shall any person forbidden to marry by such table of marriage, presume to be joined in marriage, under the penalty of fifty pounds, or twelve months imprisonment. No minister to marry contrary to the Table of Marriages.

XXVII. *And be it further enacted* by the authority aforesaid, That no justice or magistrate, being a layman, shall presume to join any persons in marriage, under the penalty of one hundred pounds currant money of this Province, to be recovered and disposed of as hereafter in this Act is directed. No layman to marry.

XXVIII. And the better to promote the execution of the good laws of this Province so far as concerns the respective parishes, and for the more easy dispatch of parish business, *Be it further enacted* by the authority aforesaid, That there be vestries in each parish of this Province; and in every parish where any rector, minister or incumbent shall lawfully be according to the laws and usage of this Province appointed, and in possession of any living, and residing therein, he shall, during the continuance aforesaid and no longer, be one of the vestry of each parish. Vestries how to be chosen.

XXIX. *And be it further enacted* by the authority aforesaid, That there shall be seven more vestrymen in each parish, who shall be inhabitants in each respective parish for which they are chosen, and shall conform to and be of the religion of the church of England, and shall be chosen by the inhabitants of each parish, as hereafter in this Act is directed. Seven more vestry-men to be chosen.

A. D. 1706.

Vestry-men to
be chosen on
Easter Monday
of every year.

XXX. *And be it further enacted* by the authority aforesaid, That on Easter Monday, which shall be in the year of our Lord one thousand seven hundred and seven, the inhabitants of each parish, that are of the religion of the church of England and that do conform to the same, and that are either freeholders within the same parish or that contribute to the publick taxes and charges thereof, or so many of them as shall think fit to attend, shall meet at their parish church, or for want of a parish church, at such place as the commissioners above named in this Act, or the major part of them that shall meet upon publick summons shall appoint, and shall there elect seven sober and discreet persons, inhabitants of the parish, that are of the religion of the church of England and do conform to the same, and that are either freeholders within the same parish or that do contribute to the publick taxes and charges thereof, to be vestrymen for the said parish for the space of one year. And so on Easter Monday yearly for ever, the inhabitants of each parish, qualified as aforesaid, shall choose seven persons, qualified also as aforesaid, to be vestrymen for that parish for which they are elected; and in case of the death or resignation or other legal discharge of any of the seven of the vestrymen of any of the parishes choosen as aforesaid, the remaining part of such vestries shall with all convenient speed summon and appoint a general meeting of all the inhabitants of the said parish, who are of the religion of the church of England and conform to the same, and that are either freeholders within the same parish and that do contribute to the publick taxes and charges thereof, who by majority of voices shall choose one or more sober and discreet person or persons, that are also inhabitants of the said parish, and of the religion of the church of England and conform to the same, and that are either freeholders within the said parish and that do contribute to the publick taxes and charges thereof, to supply such vacancies.

The vestrymen
to take the
several oaths.

XXXI. *And be it further enacted* by the authority aforesaid, That all such persons that shall be so elected and chosen, shall take the usual oaths appointed by Act of Parliament instead of the oaths of allegiance and supremacy, and likewise subscribe the test, and shall also take the following oath, viz. I, A. B. do solemnly swear and declare that I will justly and truly execute the trust or office of a vestryman of this parish, according to the best of my skill, knowledge and power, without prejudice, favour or affection. Which said oaths, at the election of any vestrymen as aforesaid, are to be administered by any Justice of the Peace of the County where such vestry is, who are hereby required and impowered to administer the same; and every person being so elected and chosen a vestryman as before by this Act is directed, having taken the oaths and subscribed the test, as required by this Act, and not before, shall be deemed and taken as one of the vestry to all intents and purposes.

The Vestry to
provide a fit
person for their
Register.

XXXII. And for the keeping a fair register of all such vestry's proceedings, and for registering of all births, christenings, marriages and burials in each respective parish, *Be it further enacted* by the authority aforesaid, That each vestry shall, and is hereby obliged to provide a fit person for a Register, who shall at all times keep a true and fair register of the several proceedings of such vestry from time to time in executing their trust and authority, and make just and true entries thereof; which person so to be appointed for keeping such register, shall take the oaths appointed by Act of Parliament, instead of the oaths of Allegiance and Supremacy, and subscribe the test, and also an oath for the true and faithful execution of his office, which said oath shall be taken before the said vestry, who are hereby impowered and required to administer the same accordingly; and having so done, and not before, the said Register shall then be admitted into

the said office, and shall make true entry of all vestry proceedings, and of all births, christenings, marriages and burials, (negroes, mollatoes and Indian slaves excepted,) that is to say, the christiah and sir-name, with the day and month and year of every such births, christenings, marriages and burials; to which purpose all and every the inhabitants of each parish, that are either parents, guardians, overseers, masters, mistresses, or executors or administrators of any persons born, christened, married or buried within this Province, (except such before excepted,) are hereby enjoined and required to give notice to the Register of such parish, within two months after such birth, christening, marriage or burial, and pay him one royal for entering it at the time of giving notice aforesaid, under the penalty of five shillings, to be forfeited by such inhabitant aforesaid refusing or neglecting as aforesaid, and under the penalty of five pounds to be forfeited by such Register refusing or neglecting to enter it, having received his fee for the same. And such Register is hereby obliged to shew any person or persons, reasonably desiring it, any such register, or give a certificate of any register of any births, christenings, marriages or burials, that shall be reasonably required of him, and shall have for his fees from such persons one royal for any search and two royals for any copy or certificate given as aforesaid, and no more; hereby ratifying and confirming as valid all registers and entries of births, christenings, marriages or burials, heretofore made in this Province by any person lawfully authorized, commissioned and empowered to do the same, by any law or custom in this Province, before the making of this Act.

A. D. 1706.

Penalty.

Register's fees.

XXXIII. And that the Register of each parish may be enabled to perform the charge hereby required of him, *Be it further enacted* by the authority aforesaid, That the church wardens of each parish within twelve months after the ratification of this Act shall, at the parish charge, provide good and substantial writing books, well bound, sufficient for registering such proceedings in, according to the directions of this Act, under the penalty of five pounds for each church warden's neglecting the same.

Register books to be provided at the parish charge.

XXXIV. *And be it further enacted* by the authority aforesaid, That the respective vestries of each parish, with all convenient speed, and within twelve months at the most after the ratification of this Act, shall procure a fair table of marriages, transcribed and set up in their respective churches, and the same keep continually in the said churches, that persons being thereby informed what marriages are forbidden, may avoid the contracting of any such unlawful marriages.

Table of Marriages to be provided and set up.

XXXV. *And be it further enacted* by the authority aforesaid, That on Easter Monday in the year one thousand seven hundred and seven, and so yearly on every Easter Monday for ever, the inhabitants of each parish that are qualified by this Act to choose vestrymen, shall meet at their parish church, or for want of a parish church, at such place, as the commissioners above named in this Act, or the major part of them that shall meet upon publick summons shall appoint, and shall there make choice of and appoint two sober and discreet persons, inhabitants of the parish, that are of the religion of the church of England and do conform to the same, and that are either freeholders within the same parish or that do contribute to the publick taxes and charges thereof, to be church-wardens for that year; which church-wardens so chosen shall take the usual oaths appointed to be taken instead of the oaths of allegiance and supremacy, and likewise subscribe the test, and likewise declare on his oath, to be administered unto him by the vestry, to whom power is hereby given to administer the same accordingly, well and faithfully to execute the office, for the ensuing year, according to the laws and usages of the said Province, to the best of

Church-wardens to be chosen yearly on every Easter Monday.

And to take the oaths.

A.D. 1706.

Penalty on
refusal to serve.

his skill and power, and until he shall be thereof duly discharged. And any such person or persons so chosen church-wardens and that shall wilfully refuse to serve in the said office and take the oaths aforesaid shall forfeit the sum of ten pounds, to be recovered as hereafter by this Act is directed. And in case any person chosen for church-warden, as above prescribed, shall happen to dye before the expiration of the year for which he is chosen, that then the major part of the vestry of the parish, with all convenient speed, shall summon and appoint a meeting of all the inhabitants of the parish, qualified as before directed, to choose a person qualified also as is before directed, to be church-warden the remaining part of the year, in the room of such church-warden so deceased.

The Clerk and
Sexton to be
chosen by the
Vestry.

XXXVI. *And be it further enacted* by the authority aforesaid, That the clerk of each parish church and the sexton shall be chosen by the major part of the vestry of each parish, which said clerk and sexton shall continue in their offices during their lives, if they shall so long inhabit in the parish, excepting the vestry for the time being shall think fitting to remove either of them, which they are hereby impowered to do, and upon such removal the said vestry, or the major part of them, may appoint another in the room of the person so removed.

Their salaries.

XXXVII. *And be it further enacted* by the authority aforesaid, That the church-wardens of each parish for the time being shall and are hereby required, from time to time, to pay yearly, at the charge of the parish, any sum not exceeding ten pounds currant money of this Province, to the clerk of each parish to be appointed as aforesaid; and any sum not exceeding five pounds, like currant money, to the sexton of each parish.

A Vestry to be
holden four
times a year,
without notice.

XXXVIII. And that there may be no neglect in the several vestries or those employed under them, in the lawful and conscionable performance of their several charges, and also for the preventing of delay and other inconveniencies which might happen if there were a necessity for the expecting the attendance and presence of all the said vestry-men, and at the same time to prevent the doing any thing of consequence by surprise, by a small number of them; *Be it hereby enacted* by the authority aforesaid, That the first Tuesday in January, in April, in July and in October, shall be and is hereby fixed and ascertained for the holding of a vestry at eleven of the clock in the forenoon, in the usual place for that purpose, without any notice or warning to be given thereof; at which time and place, the major part of the vestry-men then present (so as such majority be not under the number of five persons) shall be esteemed as a vestry, and shall have full power to order, direct and act in all things by this Act appointed to be done, according to this Act, as a vestry; and the said several vestries are not only obliged to meet once in every of the said months, as before by this Act is directed, but also as often as need shall require, upon publick notice given either by the rector or minister of each parish or by any three of the vestry-men of the parish, to consult of the methods and ways of performing the several authorities reposed in them; and from which vestry so appointed, no vestry-man, being personally summoned, shall, without a reasonable and lawful excuse, absent himself, under the penalty of such fine or mulct as the residue of the said vestry meeting shall lay upon him, so as the same never exceed ten shillings. And that in case any vestry-man shall remove or withdraw himself from the parish, or voluntarily frequently neglect to give his attendance and absent himself from the vestry, or otherwise become unfit or incapable to continue to execute such office or trust, that in any such case the residue of the said vestry or the majority of them (so as such majority be not under five persons) shall and may have power, (after personal notice given to such party, if it con-

And as often
as need shall
require, upon
public notice.

Penalty for
neglect.

veniently may be, or the affixing of a publick notice upon the great door of the church for three several Sundays successively, if publick notice cannot be given without great difficulty, charge or delay, of their intentions to proceed in such manner,) to remove such person from being a vestryman, and to declare his office void, and to summon a meeting of the parishioners, qualified as is above directed, for the electing of another in the place of such person, and shall (after allowing a reasonable time to such person to make his complaint, if he apprehend himself injured, not exceeding a fortnight) proceed to a new election accordingly.

A. D. 1706.

XXXIX. *And be it further enacted* by the authority aforesaid, That the church-wardens and vestry of each parish be authorized and required to take constant care to satisfy and pay the parochial charges, and all necessary repairs and amendments of their respective churches, chappels or church yards, and cause the same at all times to be repaired and amended as need shall require, out of such gifts, goods or chattels as shall come to their hands, for the church or parish use, and also out of such fines, forfeitures and mulcts by this law incurred, and afterwards by the same given to the church wardens to be applied to the said uses; and in case they shall not have sufficient effects to pay parochial charges as aforesaid, or to make such necessary repairs as are required, then, and not otherwise, it shall be lawful for the respective vestry of each parish to order three sober and discreet persons to assess such sum as shall be necessary to repay the parish charges aforesaid, (provided the same exceed not one hundred pounds,) by an equal assessment of the estate, real and personal, of all and every the inhabitants, owners and occupiers of lands, tenements and hereditaments, or any personal estate, within the several parishes; which assessment being returned, to the said vestry upon oath, who are hereby impowered to administer an oath accordingly, and being by them approved in open vestry, it shall then be lawful for any Justice of the Peace of the county, by a warrant under his hand and seal, directed to any of the constables of the several parishes, to levy the sum assessed upon each person by distress and sale of such person's goods as shall refuse the same, returning the overplus after reasonable charges deducted; and for want of such sufficient distress to commit the person to prison till payment be made; and the several constables of this Province are hereby required to execute such warrants under the penalty of the forfeiture of ten pounds for every neglect.

XL. And that there may not be any oppression or misapplication of the publick revenue of such vestries, or just cause of complaint against them without redress, *Be it enacted* by the authority aforesaid, That all and every parishioner or parishioners whatsoever, who contribute to the publick taxes and charges of the parish, shall and may require the Register herein before mentioned, at any reasonable and convenient time or times, to give them an inspection of the vestry books and accounts of all and every their orders and proceedings, and shall and may take copies thereof, (paying a reasonable fee for the same, according to the length thereof and the trouble of attendance;) and that all and every person or persons whatsoever, who shall find or apprehend him, her or themselves grieved or injured, or that the body of the said parish is injured or oppressed by any acts, orders, rules, accounts or other proceedings of any such vestry, the parties so injured, or any others in their behalf, or in the right of the whole body, may from time to time appeal for redress against all and every such orders, accounts and other proceedings, to the Commissioners above named, which Commissioners, or the major part of them that shall meet as aforesaid upon publick summons, are hereby required and impowered to examine, hear and determine all and every such appeals and complaints

Parochial charges and repairs of the church to be paid out of charitable gifts and by assessment.

Every parishioner may see the vestry books and accounts and take copies thereof by paying a fee.

A. D. 1706.

Fines and
forfeitures
how to be
recovered.

for redress, and to give redress as they in their judgments shall think agreeable to justice and equity; and such their order, judgment and decree shall be final, and bind all parties.

XLII. *And be it further enacted* by the authority aforesaid, That all the fines and forfeitures mentioned in this Act, that do not exceed the sum of forty shillings, shall be recovered, prosecuted, adjudged, levied and distrained by any one Justice of the Peace in this Province, as in the Act for the Tryall of Small and Mean Causes is directed, and the same being so recovered, shall be paid to the church wardens of that parish where the person inhabits, against whom the forfeiture is recovered, to be disposed of towards the defraying the public charges of the said parish. And all the fines and forfeitures mentioned in this Act, exceeding the sum of forty shillings, the half of such fines and forfeitures shall be paid into the hands of the church wardens of the parish where the person inhabits, against whom the forfeiture is recovered, to be disposed of towards the defraying the publick charges of the said parish, as the Commissioners above named, or the major part of them, that shall meet upon publick summons, shall order and direct; and the other half to him or them that will sue for the same, by action of debt, suit, bill, plaint or information, in any Court of Record in this Province, wherein no essoign, protection, privilege, injunction, or wager of law, or stay of prosecution by *non vult ulterius prosequi*, or otherwise, shall be admitted or allowed.

Persons may
plead the
general issue
and receive
treble costs.

XLII. *And be it further enacted* by the authority aforesaid, That if any action, plaint, suit or information shall be commenced or prosecuted against any person or persons, for what he or they shall do in pursuance or execution of this Act, such person or persons, so sued, may plead the general issue of not guilty, and upon issue joined, give this Act and the special matter in evidence; and if the plaintiff or prosecutor shall become non-suit, or suffer discontinuance, or if a verdict pass against him, the defendant or defendants shall recover his or their treble costs, for which they shall have the like remedy as in any case where costs by law are given to the defendants.

*Read three times and ratified in open Assembly,
this 30th of November, 1706.*

N. JOHNSON,
THOMAS BROUGHTON,
NICHOLAS TROTT,
HENRY NOBLE.

See Act of April 8, 1710, Sec. 8.

Ratification.

His Excellency JOHN Lord GRANVILLE, Palatine, the Right Hon. WILLIAM Lord CRAVEN, the Right Honourable JOHN Lord CARTERET, the Honourable MAURICE ASHLEY, Esq., Sir JOHN COLLETON, Baronet, JOHN ARCHDALE, Esq., and the rest of the true and absolute Lords and Proprietors of the Province of CAROLINA,

To all to whom it may concern, Greeting

WHEREAS, an Act entituled an Act for the Establishment of Religious Worship in this Province, according to the Church of England, and for the Erecting of Churches for the Publick Worship of God, and

also for the maintenance of Ministers, and the building convenient houses for them, was read three times and ratified in open Assembly, for the south part of the said Province of Carolina, the thirtieth day of November, Anno Domini, one thousand seven hundred and six, and signed and sealed by the Honourable Sir Nathaniel Johnson, Knight, as Governour, Thomas Broughton, Nicholas Trott and Henry Noble, Esqs. as deputies; We, the said Palatine and Lords Proprietors aforesaid, do hereby approve, and finally enact, ratify and forever confirm the said Act; and accordingly the said Act is hereby finally enacted, ratified and forever confirmed. Given under our hands and the Great Seal of our Province, this thirtieth day of July, one thousand seven hundred and seven.

A. D. 1706.

{ *Magnum* }
 { *Sigillum* }
 GRANVILLE, PALATINE,
 J. COLLETON,
 CRAVEN,
 GRANVILLE FOR LORD CARTERET.

By the Palatine and Lords Proprietors' Command,
 JAMES GRIFFITHS, Secr.

AN Additional ACT TO AN ACT INTITULED AN ACT TO CONTINUE AN ACT INTITULED AN ACT FOR LAYING AN IMPOSITION ON FURRS, &c.,
 AND FOR APPROPRIATING THE SAME.

No. 257.

WHEREAS, by an Act of Assembly of this Province, intituled an Act to continue an Act intituled an Act for laying an Imposition on Furrs, &c., and for appropriating the same, ratified in open Assembly the 4th day of November, 1704, amongst other things it was enacted, that four hundred and fifty pounds of the money which from and after the tenth of May next after the ratification of the said Act, should become due by the duty and imposition on Furrs and Skins, should be thereby appropriated yearly to and for the paying of salaries to ministers of the Church of England, that are appointed to be paid by an Act intituled an Act for Establishing of Religious Worship in this Province, which said last mentioned Act of Assembly is since repealed and made void by one Act of repeal, intituled an Act to repeal the several Acts within mentioned, ratified in open Assembly the thirtieth day of November last past; *And whereas*, one other Act of Assembly was ratified in open Assembly on the said thirtieth day of November, intituled an Act for the Establishment of Religious Worship in this Province, according to the Church of England, and for the Erecting of Churches for the Publick Worship of God, and also for the maintenance of Ministers, and the building convenient houses for them, in which Act the several sums of money ordered to be yearly paid unto the said ministers, did amount in the whole to six hundred pounds per annum, which was ordered to be paid half yearly, for the space of three years after the ratification thereof, to such ministers, qualified and elected as is prescribed by the said Act; and after the space of three years, then the whole of the several sums of money ordered to be paid to the several ministers, qualified and chosen as prescribed by the said Act as aforesaid, did amount unto the full sum of one thousand pounds per annum;

I. *Be it therefore enacted* by his Excellency John Lord Granville, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the Generall Assembly, now met at Charlestown for the south-

A. D. 1706.

£600 to be raised by imposition on furs and skins, and how to be applied.

west part of this Province, and by the authority of the same, That six hundred pounds of the monies which shall be raised by the said duty and imposition on furs and skins, shall and is hereby appropriated to be paid every year to the several ministers, qualified and elected as is appointed by the above recited Act; the same to be paid to them half yearly, for the space of three years after the ratification of the said recited Act; and after the expiration of the said three years, the full sum of one thousand pounds is hereby appropriated to be paid every year forever, to the said several ministers, to be paid them half yearly, as is directed and appointed by the said Act; the which said yearly sums of six hundred pounds, for the space of three years, and afterwards the said yearly sums of one thousand pounds forever, hereby appropriated to the use of the ministers of this Province, and no other use whatsoever, the publick Receiver for the time being is hereby strictly charged and required to reserve and pay the same accordingly, under the same penalties and forfeitures which are to be incurred by the said Act intituled an Act to continue an Act for laying an Imposition on Furs &c., and for appropriating the same, for misapplying the monies thereby raised.

In case any of the churches are not supplied with a rector, that part of the money so reserved how to be disposed of.

II. *Provided*, nevertheless, *And be it enacted* by the authority aforesaid, That in case the several churches mentioned in the said recited Act, or any of them, be not supplied with a rector belonging to each church, then, and in such case, such part of the said yearly sum of six hundred pounds, and also such part of the said yearly sum of one thousand pounds, ordered and appropriated to be paid to the ministers, as before directed, which shall not be paid by reason of any church being vacant, or wanting of a rector, the said sum so unpaid shall be disposed of by an ordinance of the General Assembly, until such vacant church or churches are supplied with a rector or rectors.

The publick Receiver not to pay any salaries to rectors, except such as are qualified and elected according to the Church Act

III. *And be it further enacted* by the authority aforesaid, That in case the publick Receiver for the time being, shall, upon any account, or by any order whatsoever, pay unto any minister whatsoever, any of the yearly salaries ordered to be paid to the several rectors or ministers of the several churches mentioned in the said Act intituled an Act for the Establishment of Religious Worship in this Province, according to the Church of England, and for the Erecting of Churches for the Publick Worship of God, and also for the Maintenance of Ministers and the Building convenient Houses for them, other than to such rector or minister as is duly qualified and elected rector of any parish, according to the direction of the said Act, that for every sum so paid he shall forfeit treble the value thereof, the one half of which forfeiture shall be to his Excellency the Palatine and the rest of the true and absolute Lords and Proprietors of this Province, and for and towards the support of the Government of this Province, and the contingent charges thereof, to be disposed of by Ordinance of the General Assembly of this Province, and not otherwise; and the other half to him or them that will sue for the same, by action of debt, suit, bill, plaint or information, in any Court of Record in this Province, wherein no essoign, protection, privilege, injunction, or wager of law, or stay of prosecution by *non vult ulterius prosequi*, or otherwise, shall be admitted or allowed.

In case of vacancy the vestry to elect a rector.

IV. *Provided*, nevertheless, *And be it enacted*, That in case that any of the several churches or parishes is vacant of a rector or minister, in case the vestry of the said parish shall agree with any lawful minister of the Church of England, to supply such vacant cure until a minister duly qualified shall be elected, according to the order and prescription of the before mentioned Act, that then, and in such case, it shall be lawful for the

said vestry, or the major part thereof, and they are hereby authorized and impowered by an order under their several hands to the publick Receiver, to order and require him to pay unto such minister appointed by them to supply the vacant cure, so much money as they shall agree with him for, to be paid, and at such times as they shall order and appoint; *Provided* the sum so agreed for proportionably to the time, do not exceed the yearly value allowed by the above recited Act to the rector or minister of the vacant church or parish, the cure of which such minister doth supply; and upon such order signed by the said major part of the vestry as aforesaid, the publick Receiver is hereby ordered and required punctually to pay the same.

A. D. 1706.

V. *Whereas*, by the above recited Act for the establishment of religious worship in this Province, according to the Church of England, amongst other things it is enacted, That if the Commissioners mentioned in the said Act, or the major part of them as aforesaid, shall have reason to believe that money will not come into the Receiver's hands in such time as the same ought to be paid unto the several rectors or ministers of the several parishes, that then, and in such case, the said Commissioners, or the major part of them, shall have power, and they are hereby impowered to cause the several sums for the rectors or ministers of the several parishes of this Province, mentioned in the said Act, to be assessed and levied by any two or more freeholders of the several parishes. And further in the said Act it is enacted, That the said Commissioners, or any three or more of them, by their warrant under their several hands and seals, directed unto any of the constables belonging to any of the particular parishes aforesaid, shall order the sum or sums of money so assessed, to be collected from the said several inhabitants; as by the said Act, reference being thereunto had, will more fully appear. But in the said Act there is no penalty laid upon the said Commissioners in case of failure or neglect of their duty in any of the above recited particulars; *Be it therefore enacted* by the authority aforesaid, That in case the said Commissioners, or any of them, shall fail of and neglect their duty in any of the above recited particulars, when the same is legally demanded of them, that then, and in such case, the said Commissioners who shall so fail of or neglect their duty, for every time that they shall so offend, they shall forfeit the sum of fifty pounds to the rector or minister thereby grieved, and that within six months after the offence committed, will sue for the same in any Court of Record in this Province, by action of debt, bill, plaint or information, wherein no essoign, protection, privilege, injunction, or wager of law shall be admitted and allowed.

Penalty upon
the
Commissioners
for neglect.

*Read three times and ratified in open Assembly,
February 8th, 1706-7.*

N. JOHNSON,
ROBERT GIBBES,
NICHOLAS TROTT,
HENRY NOBLE.

NOTE.—See Act of Feb. 17, 1704-5.

A.D. 1706.

No. 258. *AN Additional ACT TO AN ACT ENTITLED AN ACT FOR THE ASCERTAINING THE GAUGEING OF BARRELLS AND FOR AVOIDING DECEITS IN SELLING AND BUYING BEEF AND PORK, PITCH AND TARR; AND TO ONE OTHER ACT ENTITLED AN ADDITIONAL ACT TO AN ACT FOR THE ASCERTAINING THE GAUGE OF BARRELLS AND FOR AVOIDING DECEITS IN SELLING AND BUYING BEEF AND PORK, PITCH AND TARR.*

(*See Act of October 9, 1699; Act of March 1, 1700-1; Act of Sept. 17, 1703; Act of Feb. 17, 1704-5.*)

WHEREAS by the afore recited Act and Additional Act, ratified in open Assembly, the seventeenth day of February, 1704-5, the Packers appointed for Charlestown, Cooper and Ashley Rivers, have liberty (for the further dispatch of their business) to appoint one or more deputies under them, to help them, and officiate in their places, as by the said Act is particularly directed, and it is found by experience that the said Packers have very much neglected the same, to the prejudice of many of the inhabitants of this Province;

I. *Be it enacted* by His Excellency John Lord Granville, Pallatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the Generall Assembly, now met at Charlestown, for the south-west part of this Province, and by the authority of the same, That any cooper in this Province may be appointed packer for Charlestown, Cooper and Ashley Rivers and Craven County, provided such cooper or coopers, before he or they enters in the execution of the said office of packer, shall enter into bond to Capt. Edward Loughton, Mr. William Gibbon and Mr. Evan Macpherson, or the survivors of them, and further do all such thing and things as by the Acts and additional Act is required to be done—and also shall not undertake to pack any beef or pork untill he or they are first well informed that the said beef or pork has been in the cask at least eight days and no less.

II. *And whereas* the want of packers in Colleton County, has proved of great prejudice to many of the inhabitants of that part of this Province, *Be it enacted* by the authority aforesaid, That any cooper or coopers in Colleton County or elsewhere may be appointed packers for the said county, provided such cooper or coopers before he or they enters in the execution of the said office of packer, shall enter into bond to Captain Abraham Eves, Mr. John Wiltmarsh and Mr. Robert Seabrooke, or either of them, (who are hereby appointed Searchers, Gaugers and Packers for Colleton County,) in the same penalty, and in the same manner, as is appointed or directed to be done by the afore recited Acts, for the Packers of Charlestown, Cooper River and Ashley River.

*Read three times, and ratified, in open Assembly,
this eighth day of February, 1706-7.*

N. JOHNSON,
ROBERT GIBBES,
NICHOLAS TROTT,
HENRY NOBLE.

A. D. 1707.

AN ACT declaring the right of the House of Commons for the time being to nominate the Publick Receiver, &c. No. 259.

(Ratified July 5, 1707. Repealed by an instrument under the several hands of the Lords Proprietors, and under the great seal of the Province, July 22, 1718. But notwithstanding the said repeal, this Act was declared to be in full force by the Reviving and Continuing Act of February 12, 1719-20. The present Act in the original is not now to be found.)

AN ACT TO REVIVE AND REPEAL THE SEVERAL ACTS WITHIN MENTIONED.

No. 260.

I. WHEREAS divers of our temporary laws are expired, which by experience have been found useful and beneficial; for the reviving of the same, *Be it enacted* by his Excellency John Lord Granville, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, and by the authority of the same, That an Act entituled an Act for the Entry of Vessells, ratified in open Assembly the eighth day of October, 1698; and an Act entituled an Act for ascertaining Publick Officers Fees, ratified in open Assembly the eighth day of October, 1698; and an Act entituled an Act Inhibiting the Tradeing with Servants and Slaves, ratified in open Assembly, the sixteenth day of March, 1695-6; and an Act entituled an Act to prevent Marriners and Seamen running into Debt, ratified in open Assembly the sixteenth day of March, 1695-6; and an Act entituled an Act for Prevention of Runnaways deserting this Government, ratified in open Assembly the first day of March, 1700; and an Act entituled an Act for the Tryall of Small and Mean Causes, ratified in open Assembly the fifteenth day of October, 1692; and an Act entituled an Act for the encouragement of Killing and Destroying Beasts of Prey, ratified in open Assembly the eighth day of May, ****; and an Act entituled an Act to raise the Currant Coin, and for Promoting the Currency of Heavy Money, ratified in open Assembly the first day of March, 1700; and an Act entituled an Act for the Raiseing and Inlisting such Slaves as shall be thought serviceable in time of Allarms, ratified in open Assembly the fourth day of November, 1703—are hereby declared revived and enacted to be in force for and during the full term and time of two years after the ratification hereof, and from thence unto the end of the first session of the next General Assembly, and no longer.

II. *And be it further enacted* by the authority aforesaid, That an Act entituled an Act to prevent Horses from being brought by land from the Northern Settlements into this Government, ratified in open Assembly the first day of March, 1700-1, be declared repealed, annulled and made void, any thing contained in the said Act to the contrary notwithstanding.

Read three times, and ratified in open Assembly, this fifth day of July, 1707.

JAMES RISBEE,
CHAS. BURNHAM.

N. JOHNSON,
ROBERT GIBBES,
HENRY NOBLE,

NOTE.—The Acts numbered 88, 135, 136, 164, 165, 184, 188, 209, 237, are hereby revived and continued for two years. The Act No. 177 is repealed.

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No. 261. *AN ACT FOR THE APPOINTING LOOK-OUTS AND PROVIDING NECESSARIES FOR THE SAME.*

Preamble.

WHEREAS nothing can contribute more to the speedy and effectual repelling of an enemy than good and quick intelligence of their approaching, which can only be had by watches, well fitted and conveniently placed, more especially along the sea coast;

A watch on Wauch Island.

Be it therefore enacted by his Excellency John Lord Granville, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, with the advice and consent of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, That the persons hereafter named shall settle watches of such numbers of people in such places and so appointed as is hereafter provided by this Act. That Capt. Thomas Nairne shall and is hereby required to appoint a watch upon the Island commonly called Watch Island, on the River May, consisting of four white men and six Yamasees; and likewise another watch at the mouth of Port Royal River, consisting of two white men and two Cusaboe Indians.

On Otter Island.

II. *And be it further enacted* by the authority aforesaid, That Mr. William Edwards shall appoint one watch on Otter Island, consisting of two white men, and another somewhere on Chapman's Creek, consisting of one white man and one hired Indian.

Edistoe Island.

That Capt. John Whitmarsh shall order and appoint a watch on Edistoe Island, consisting of one white man and two Edistoe Indians.

Jones's Island.

That Mr. Thomas Jones shall appoint a watch on Jones's Island, consisting of two white men and two Bohicott Indians.

Folley Island.

That Capt. Jonathan Drake shall appoint a watch on Folley Island, consisting of one white man and one hired Indian.

Bull's Island.

And that Mr. Benjamin Webb, Jr. shall appoint a watch on Bull's Island, consisting of one white man and two Sewee or other neighbouring Indians.

Pay of £20 per annum allowed to white men.

III. *And be it further enacted* by the authority aforesaid, That the said white men, and all others hired by any of the persons aforesaid to serve as watchmen, in any places mentioned in this Act, shall be allowed any sum not exceeding twenty pounds per annum, out of the publick treasury of this Province, and the Publick Receiver is hereby impowered to pay such sums out of any moneys which he shall have then in his hands, belonging to the publick, to any watchman or their assigns, upon their produceing an order under the hand of any person appointed by this Act to settle watches.

Three pounds per annum for each Indian.

IV. *And be it further enacted* by the authority aforesaid, That a sum not exceeding three pounds shall be yearly paid out of the publick treasury, when demanded, as a salary for each of the Indians employed on the said watches, (except that on the River May,) and the Publick Receiver is hereby impowered to pay the same to each of the persons above mentioned or their orders, which yearly payment shall commence two months after the ratification of this Act.

V. *Be it further enacted* by the authority aforesaid, That the several persons before mentioned shall settle the watches committed to their respective charges as soon as possible.

Certain other sums allowed.

VI. *And be it further enacted* by the authority aforesaid, That a sum not exceeding twenty and seven pounds, shall, as soon as is demanded by orders from the several persons hereafter named, be paid for such uses as follows; that is, to the order or orders of Capt. Thomas Nairne, for the furnishing the scout watch on the River May with boat, sail, graplin, or

other necessaries, any sum not exceeding fifteen pounds; and for the same necessaries for the watch on Port Royal River's mouth, any sum not exceeding eight pounds. To Mr. William Edwards or order, for a canoe for the watch on Otter Island, any sum not exceeding forty shillings; and the same sum to Mr. Benjamin Webb, Jr. or his order, for a canoe for the use of the watch on Bull's Island; and the same sum to Capt. Jonathan Drake for a canoe for the watch on Folly Island; and the publick Receiver is hereby required to pay the same sums out of any moneys which shall be then in his hands.

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VII. *Be it further enacted* by the authority aforesaid, That the Governor for the time being is hereby impowered and required to give such instructions to the several persons before mentioned, or to others who shall be appointed hereafter in their places, as he shall think proper. Governor to give instructions.


VIII. *Be it further enacted* by the authority aforesaid, That if any of the persons before mentioned shall die, depart this Province, or refuse to act in taking care of the watches, as they are hereby impowered, that the Governour for the time being shall nominate others in their stead, who shall have all the powers given to those persons above named. Provision in case of vacancy

IX. *Be it further enacted* by the authority aforesaid, That all persons employed as watchmen by any persons above named, shall observe such instructions as they shall receive from time to time from those who employ them, pursuant to such as they the said employers shall have from the Governour for the time being; and for their neglect of any part of their duty, they shall be liable to such diminutions of their wages as their employer with the advice and consent of any two freeholders, whereof one to be a Justice of the Peace, shall think a proper punishment for the offence.

X. *Be it further enacted* by the authority aforesaid, That the Powder Receiver shall deliver annually to Capt. Tho. Nairne, for the use of the scout watch, and the other on Port Royal River's mouth, fifty pounds of powder and one hundred weight of bullets; to each of the other persons before mentioned, who are appointed to settle Look-outs, ten pounds of powder and twenty-five pounds of bullets for each Look-out under their several charges. The said annual allowance of powder to commence two months after the ratification of this Act, and of which the said persons shall render a just account to the publick at the end of every year.

XI. *Be it further enacted* by the authority aforesaid, That if any Indians who are appointed by their caciques to serve on any of the watches, shall run away before any relief come, or commit any other fault contrary to their duty, which justly deserves punishment, that each of the several persons above named (who shall have such faults committed on any of their respective watches,) shall have power and are hereby required, by and with the advice and consent of two freeholders and the respective cacique of that nation, to order such moderate punishment to be inflicted on such offenders as in their judgment shall seem meet.

XII. *Be it further enacted* by the authority aforesaid, That there shall be great guns with their carriages and other necessaries placed at the following places, in order to the more sudden alarming the country, that is, one at Mr. Peter Palmeter's house on Port Royal Island; one at Captain Thomas Nairne's house, on St. Helena Island; one at Mr. William Edwards his house; one at Mr. Thomas Jones's house, on Bohicott Creek; one at Mr. Jonathan Evans his house, on James's Island; one at Lieut. Samuel Sybley's house at Sewee. And the Right Honourable Sir Nathaniel Johnson, Governour, is hereby impowered and prayed to deliver one great gun to each of the several persons before

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£40 per annum
for a watch on
Sullivan's
Island.

XIII. *Be it further enacted* by the authority aforessaid, That the sum of forty pounds per annum shall be paid out of the publick treasury for keeping a watch on Sullivan's Island, to such person as the Governour for the time being shall order and appoint to take care of the same, and the publick Receiver is hereby required to pay the same accordingly.

*Read three times, and ratified in open Assembly,
this fifth day of July, 1707.*

N. JOHNSON,
ROBERT GIBBES,
HENRY NOBLE,
JAMES RISBEE,
CHAS. BURNHAM.

NOTE.—Repealed by Act No. 296, March 1, 1710–11.

No. 262. **AN ACT** TO MAKE AND ESTABLISH BILLS OF CREDIT FOR RAISING THE SUM OF EIGHT THOUSAND POUNDS FOR SATISFYING THE DEBTS DUE BY THE PUBLICK ON ACCOUNT OF THE LATE INVASION, AND FOR FINISHING THE FORTIFICATIONS ABOUT CHARLESTOWN, AND TO REVIVE THE SEVERAL ACTS WITHIN MENTIONED, AND TO CALL IN THE FORMER BILLS OF CREDIT.

Preamble.

WHEREAS, it highly concerns us, the representatives of the people of this Province, to keep up the publick faith and credit, and knowing it to be our duty, in honour and justice, to satisfy the publick debts, as also being convinced of the necessity of compleateing and finishing the Fortifications about Charlestown, in order, therefore, to perform the same, and that all former bills of credit may be called in and cancelled, and others made and established in their rooms for the payment of the said debts,

New bills of
credit to be
issued to the
amount of
£8000.

I. *Be it enacted* by his Excellency, John Lord Granville, Palatine, and the rest of the true and absolute Lords and Proprietors of the Province of Carolina, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of the said Province, and by the authority of the same, That immediately from and after the ratification of this Act, it shall and may be lawful to and for the Honourable Colonel Thomas Broughton, Landgrave Thomas Smith, Captain Thomas Neirn, William Smith and Richard Beresford, Esqrs., Commissioners thereunto appointed, who are hereby required to undertake and perform the same, to make or cause to be made, a certain number of new bills of credit, to the value of eight thousand pounds, the lowest thereof to be of one pound, and then two pound, four pound, six pound, ten pound, and twenty pound bills, and no higher, to say four hundred twenty shilling bills, three hundred forty shilling bills, four hundred four pound bills, three hundred six pound bills, one hundred and eighty ten pound bills, and ninety twenty pound bills, which said bills shall by the Receiver hereinafter named, and by the Receiver for the time

In what sums.

being, be given in payment, and to such person and persons to whom the country is indebted, on account of the late invasion, or upon any former or later account whatsoever, that is to say, to every one so many bills as will make the payment of his debt, which debts shall be certified to the Commissioners aforesaid, in a schedule under the hand of the present Speaker of the House of Commons, and delivered unto them for their guidance and direction; and the Receiver aforesaid, and the Receiver for the time being, is required to make payment by and with the said new bills, of all debts that hereafter shall become due from the publick for and upon the account of finishing and repairing the fortifications about Charlestown, governing himselfe therein by the orders that the Commissioners for that work appointed, shall from time to time draw on him, not exceeding the sum of six hundred pounds.

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Publick
creditors to be
paid in new
bills.

II. And to prevent the counterfeiting the said bills by ill-disposed persons, *Be it enacted* by the authority aforesaid, That if any person or persons shall counterfeit any of the said new bills, or knowing any of them to be false or counterfeited, shall utter the same in payment, then and in such case, the counterfeiter, or any one aiding or assisting him, as well as the utterer or disposer of the said bills, being thereof duly convicted, shall be punished as guilty of felony, without benefit of clergy.

Penalty on
counterfeiting
the new bills.

III. And the better to prevent the counterfeiting the said bills, *Be it enacted* by the authority aforesaid, That all the bills of credit to be made, appointed and established by this Act, shall be indented, and the counterpart of the indenture kept fairly bound in a book by the Commissioners aforesaid, and also the bills shall every of them be numbered, and the counterpart of the indenture shall have the same number of the bill, that if any person do question or suspect the said bill or bills to be false and counterfeited, they may compare them with the counterpart of the indenture; and the Commissioners aforesaid are hereby ordered and required to have the said books always in Charlestown, ready to be produced to all persons desiring the same to compare his or their bills, without any fee or reward; and besides the said indenture and number on the said bill and counterpart, the said bills and each of them shall be signed by the Commissioner for all and every four of them, and a seal for and to every bill, and all means used to make the same secure from counterfeiting before they or any of them are issued out in payment.

IV. *And be it enacted* by the authority aforesaid, That the Commissioners herein before nominated, and every of them, shall, before they sign and make the said bills, or any of them, take their several and respective corporal oaths before any one member of the Council for the due execution of the matters and things required of them by this Act; and when all the said bills of credit are made and signed as aforesaid, they, the said Commissioners, and every of them, are hereby required, under their hands and seals to return the number, quantity and value of the said bills unto such member of Council, before whom such oath was taken, or any other member of the Council, who is hereby required to deliver them up to the next Assembly.

Commissioners
to take oath.

V. *And be it further enacted* by the authority aforesaid, That the Receiver herein after named, and the Receiver for the time being, shall receive and take, and he is hereby obliged and required to receive and take any of the said new bills in payment of any dues, duties, impositions or taxes coming to the publick, the which, when he hath in his possession, he shall every two months cancell and put on a file in the presence of the Commissioners hereinafter named, to be presented to the Assembly at their next meeting; and if the said Receiver, or the Receiver for the time being,

The new bills
to be taken in
payment by
the publick
Receiver, who
may give
specie for
them.

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by reason of receiving several small sums of money under the value of any of the said bills, shall happen to have any publick money in specie, then and in such case, he shall take of any person possessed of the said bills, so many bills as the said money amounts to, and shall in lieu thereof pay them money for the same.

Old bills to be exchanged for new, and the old to be cancelled.

VI. *And be it enacted* by the authority aforesaid, That every person or persons in this Province now possessed of any of the former bills of credit, established and made current by an Act entituled an Act for Raising of the Sum of Four Thousand Pounds on the real and personal Estates and of and from the Profits and Revenues of the Inhabitants of this Province, and issuing of Bills of Credit for satisfying the debts due by the Publick, &c., ratified on the sixth day of May, in the year of our Lord, one thousand seven hundred and three, and by another Act entituled an Act for the Sooner and more Secure Payment of Debts oweing by the Publick, and Continuing the Currency of the Bills of Credit, &c., ratified the ninth day of April, Anno Domini, one thousand seven hundred and six, shall after the ratification of this Act, bring the same to the publick Receiver in Charlestown, who is hereby required to take the same, and exchange and give to such person such and so many new bills in the room thereof, as will amount to the like sum and value of the old bills delivered up, which said old bills, he, the said Receiver, shall weekly every Tuesday, (in the presence of the Commissioners hereinafter named) cancell and put on a file, to be presented to the Assembly at their next sitting.

All surplus public moneys to be applied to the new bills of this Act.

VII. *And be it further enacted* by the authority aforesaid, That all sum and sums of money now actually remaining in the publick Treasury, together with all the outstanding taxes by any former Act of Assembly, laid on all and every the inhabitants of this Province, and all and every the dues, duties and impositions hereafter payable, and the overplus of the moneys payable to the ministers of the Church of England for their salary, be disposed of and applied, and they are hereby directed and intended to be disposed of and applied for and towards the payment of the debts due from the publick and sinkeing the new bills established by this Act.

Made a legal tender for any sum under 40s.

VIII. *And be it further enacted* by the authority aforesaid, That all and every the bills of credit made and established by this Act, shall be current for the sum or sums of money therein mentioned, and shall be reckoned and taken, from and after the ratification of this Act, to be a good payment and tender in law, and may be so pleaded in any court or courts in the said Province, or before any Justice of the Peace for any sum under forty shillings; and moreover, if any person or persons shall refuse to take and receive the same in payment, he or they so refusing, shall forfeit double the value of such bills so refused, the said forfeiture to be recovered and disposed of as other fines and forfeitures are in this Act appointed; except in payment of all bonds, bills, and specialties and debts whatsoever contracted or made before the ratification of this Act, wherein there is express mention.

Penalty on refusing the bills.

Certain Acts revived and continued.

IX. *And be it further enacted* by the authority aforesaid, That an Act entituled an Act for laying an Imposition on Furs, Skins, Liquors, &c., ratified in open Assembly the sixth day of May, in the year of our Lord one thousand seven hundred and three; and one other Act entituled an Explanatory and Additional Act to an Act entituled an Act for laying an Imposition on Furs, Skins, Liquors and other Goods and Merchandize, imported into and exported out of this part of the Province, ratified the seventeenth day of September, in the year of our Lord one thousand seven hundred and three; and the several Acts and Additional Acts for the payment of two several taxes of four thousand pounds, as far forth as

concerns the payment of the taxes yet unpaid, and every matter, clause and thing whatsoever in the said Acts and every and either of them contained, not disagreeable to or inconsistent with the true intent and meaning of this Act, are hereby revived and continued in full force for and during the continuance of this Act, any limitation, matter or thing in the before recited Acts or any of them to the contrary thereof in any wise notwithstanding.

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X. *And be it further enacted* by the authority aforesaid, That John Barnwell, Gent., is hereby nominated and appointed Comptroller of all such entrys, to be made pursuant to the above recited Acts or any of them; and that the said Comptroller, or the Comptroller for the time being, shall have the same power and authority and the same fees and perquisites, and be under the same obligations as John Buckley, merchant, nominated and appointed in and by the above recited Act, ratified the sixth day of May, Anno Dom. 1703, should or ought to be; (always provided that the said John Barnwell, and the Comptroller for the time being, is hereby required, before his entering on the said office, to enter into bond to the same persons hereafter named, to whom the Receiver is to become bound, in the sum of five hundred pounds currant money, for his faithful execution of the said office, according to the tenor of the said last recited Act); and that he, the said Comptroller, or the Comptroller for the time being, shall not ask or demand, or pretend to have or receive, any fee or reward for the entering of any goods or merchandize, or any thing whatsoever, under the value of forty shillings, prime cost, at the place from which they were last exported, which shall be sent as a gift or present *bona fide* to any person or persons in this Province; and the said Comptroller, or the Comptroller for the time being, is hereby required to take all entrys inward upon oath of the importer, at the time of his making such entry.

Comptroller appointed.

To give security by bond.

Presents under 40s. not to be entered.

XI. *And whereas*, by the said last recited Act it was declared and enacted, that if any liquors or goods, negroes excepted, were exported within the space of two months after importation, the Receiver should discount unto the owners or their assignes halfe the customes of the said liquors and goods, according to the rates in the aforesaid Acts set down and appointed; *Be it enacted* and declared by the authority aforesaid, That from and after the ratification of this Act if any importer of the said liquors and goods, negroes excepted, do within twelve months after the importation thereof, and not otherwise, export such goods or any part thereof, then, and in such case the Receiver for the time being shall discount and repay unto such importer, owner, or his assignes, three fourths of the customs and duties of the said liquors and goods, according to the rates mentioned in the said recited Acts, any thing therein contained to the contrary in any wise notwithstanding.

If goods imported are exported in 12 months, a drawback of duties to be allowed.

XII. *And be it further enacted* by the authority aforesaid, That George Smith, merchant, is hereby nominated and appointed publick Receiver of all dues, duties, taxes, impositions, penalties and forfeitures arising or growing due by virtue of this or any other Act, under the same directions, penalties, displacements, fines and forfeitures, and with the same power as any publick Receiver might or could have, or be liable unto in and by the said recited Acts, or any of them, and be accountable to the House of Commons from time to time.

A Receiver nominated.

XIII. *And be it enacted* by the authority aforesaid, That the Receiver aforesaid, or the Receiver for the time being, shall yearly and every year on the second Tuesday in August, October, December, February, April and June, lay his books and the state of his accounts, to be examined by

Examiners of the Receiver's books.

A. D. 1707.

Provision in
case of death
or absence.Salary of the
Receiver.In lieu of fees
and perquisites.Bond to be
taken in the
sum of £6000.Goods not to be
landed till
duties paid or
bond given.Act for the
currency of
country bills
repealed.

and before Mr. William Smith, merchant, Mr. John Abraham Motte, Mr. Lewis Pasquereau, Colonel George Logan and Mr. Evan Mackpherson, or any three of them, who are hereby impowered, and have power at all other times, as occasion shall require, to call for a sight of the said Receiver's books and publick accounts; and if any of them dye or depart this Province, then the survivors and dwellers in the said Province shall choose others in their places and steads.

XIV. *And be it enacted* by the authority aforesaid, That the said publick Receiver, and the Receiver for the time being, for his pains, care and trouble in executing and performing the said office, shall yearly and every year be paid and allowed out of the publick Treasury the sum of one hundred and fifty pounds, currant money, to be paid at the end of every three months in the year, by even and equal portions, in lieu of all fees, dues and perquisites, whatsoever, arising from the said office, any thing contained in this or any other Act to the contrary notwithstanding.

XV. *And be it further enacted* by the authority aforesaid, That the Honourable Colonel Thomas Broughton, William Smith, merchant, and Richard Beresford, Esq., or any two of them, have the same power, and they are hereby impowered to take such and the same bond of the said Receiver, in the sum of six thousand pounds, and to act and do all such matters and things with the same power and trust as Colonel James Moore, Job Howes and Ralph Izard, Esqs., might or could do by the said recited Acts, or any of them; and that all fines and forfeitures accruing or becoming due by virtue of the said last recited Act, this Act or any other Act before mentioned, shall be recovered and disposed of as in and by the said Acts is directed and appointed.

XVI. *And whereas*, twenty days are appointed and limited in and by the before recited Act, ratified the sixth day of May, Anno Domini one thousand seven hundred and three, for the payment of the duties and rates laid on the said goods and liquors to the Receiver, or the importer's bond to be given, with security for payment thereof as aforesaid, but no provision made for the Receiver to compel the owner or importer to enter into such bond before landing; *Be it therefore enacted* by the authority aforesaid, That no liquors or goods imported as aforesaid, shall be carried by any ship, boat, canoe or vessel whatsoever, up Cooper river or Ashley river, more inland than the north or south end of Charlestowne, before the owner, importer or assignes shall have paid, or given bond with security, to the Receiver for the time being, for the payment and satisfaction of the rates and duties aforesaid, within sixty days after landing, under the same penalty and forfeiture as is assigned in the above recited Acts, for the landing of goods rated in the said Act without entry.

XVII. *And be it enacted* by the authority aforesaid, That an Act entituled an Act for Raising the Sum of Four Thousand Pounds, &c., and Establishing Bills of Credit, &c., ratified the 8th day of May, one thousand seven hundred and three; and another Act entituled an Act for the Sooner and more Secure Payment of Debts Owning by the Publick, and for Continuing the Currency of the Bills of Credit, commonly called Country Bills, ratified in open Assembly the ninth day of April, Anno Domini one thousand seven hundred and six, and every clause, paragraph, article and sentence therein contained, as far forth as they establish and continue the currency of the said bills, be repealed, and they are hereby repealed, annulled, revoked and utterly made void to all intents and purposes whatsoever, any thing in the said Acts contained to the contrary in any wise notwithstanding.

XVII. *And be it enacted* by the authority aforesaid, That this Act and every thing herein contained do continue in force two years, and from thence to the end of the first sessions of the next General Assembly. A. D. 1707.

*Read three times and ratified in open Assembly,
this 5th day of July, Anno Domini 1707.*

N. JOHNSON,
ROBERT GIBBES,
HENRY NOBLE,
JAMES RISBEE,
CHARLES BURNHAM.

NOTE.—Repealed by Sect. 34 of Act for laying an imposition on liquors, &c., June 30, 1716, which Act also is repealed by Act of March 20, 1718-9. See also Act of Dec. 11, 1717, which also was negatived by the Lords Proprietors. See also the note on this present Act, concerning the specie and paper currency of this Province, at the end of the volume, among the notes and references.

AN ACT FOR ENCOURAGING THE MAKING OF POTASH AND SALTPETER. No. 263.

WHEREAS, some proposals have been made to the General Assembly, relating to the making of potash and saltpeter, which if effected, would prove to the great benefit and profit of this Province;

I. *Be it therefore enacted* by his Excellency John Lord Granville, Palatine, and the rest of the true and absolute Lords and Proprietors of the Province of Carolina, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown, for the South-west part of this Province, That if any person now inhabiting this Province, or that shall hereafter come into the same, shall instruct any of the inhabitants who are willing to undertake to make the said commodities in such ***** that the said commodities shall be made fit for ***** market, that such persons shall receive the sum of **** shillings per tun for each tun of potash and ***** for each tun of saltpeter, which shall be shipped on board any ship or vessel sailing out of any creek or river from the south-west part of this Province, during the time and term of seven years after the ratification of this Act; *Provided*, nevertheless, that any person claiming such gratuity, shall produce good certificates, well attested, from some lawful magistrate, that he was the person who first instructed any of the inhabitants of this Province in the art aforesaid, upon which the publick receiver for the time being, shall pay the same.

II. *Be it further enacted* by the authority aforesaid, That Mr. John Steward, in consideration of his losing the use of his arme in the publick service, and by that means being reduced to great poverty, shall receive the sum of twenty poundes per annum out of the publick treasury of this Province, at half yearly payment, during his life, and the receiver is hereby required to pay the same accordingly, to be computed from the day of the ratification of this Act.

*Read three times, and ratified in open Assembly,
this 12th day of July, Anno Domini 1707.*

N. JOHNSON, CHARLES BURNHAM,
THO. BROUGHTON, ROBERT GIBBES,
HENRY NOBLE, JAMES RISBEE.

NOTE.—The reward to be given for seven years after the ratification of this Act.—Expired; and another Act passed for the making of Potash, &c., June 7, 1712.

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No. 264. AN ACT for Repairing and Expedition Finishing the Fortifications in Charlestown.

(Ratified July 12, 1707. *See last volume.*)

No. 265. AN ACT for the Better Regulating the Watch in Charlestown.

(Ratified July 12, 1707. *See last volume.*)

No. 266. AN ACT to Continue the Imposition on Liquors, &c. and for a Fund and Security of the Payment of the Sum of Eight Thousand Pounds for sinking the Bills of Credit, and for empowering the Publick Receiver for the time being to recover and get in all outstanding Taxes.

(Ratified July 12, 1707, to continue for four years. See a similar Act of June 30, 1716, which was repealed by an order of Council of July 22, 1718, and a similar Act of March 20, 1718-9. Repealed by the Lords Proprietors, July 24, 1719. The present Act expired. The original not now to be found.

No. 267. AN ACT for the Settling of Pilotage.

(Ratified July 12, 1707, to continue for two years. Repealed by sect. 5 of Act of June 29, 1717. The original Act extant, but too illegible to be copied usefully.)

AN ACT for the raising a Publick Store of Powder for the Defence of this Province.

(Ratified July 12, 1707. Expired. See Act of 16th Feb. 1723-4, for calling in the paper bills. The present Act is briefly noticed by Trott and Grimke, but the original Act is not extant. I am unable to assign the number.

AN ACT to erect a General Post Office.

(Ratified July 12, 1707. Continued for two years, by several Acts. Revived and continued for two years by a Reviving Act of February 20, 1718-9. Expired. This Act is briefly noticed by Trott and Grimke, but as the original Act is not now to be found, I cannot assign a number to it. The numbers of these two Acts in Trott, are 272, 273, and in Grimke 270, 271, neither of which can be accurate, as they do not fall in with the original series now before me.

A. D. 1707.

AN ADDITIONAL ACT to a Continuing and Additional Act to an Additional Act for making and Mending Highways, and for the empowering the Governor for the time being to appoint Commissioners in the rooms of such as are dead or gone off or may die or go off, and to ascertain the Watch in Charlestown.

No. 268.

(Ratified July 19, 1707. Repealed by the Highway Act of Sept. 15, 1721. See last volume.)

AN ACT FOR REGULATING THE INDIAN TRADE AND MAKING IT SAFE TO THE PUBLICK. No. 269.

WHEREAS the greater number of those persons that trade among the Indians in amity with this Government, do generally lead loose, vicious lives, to the scandal of the Christian religion, and do likewise oppress the people among whom they live, by their unjust and illegal actions, which if not prevented may in time tend to the destruction of this Province;—
For the prevention whereof as much as may be, Preamble.

I. *Be it enacted* by his Excellency John Lord Granville, Palatine, and the rest of the true and absolute Lords and Proprietors of the Province of Carolina, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, That from and after the first day of October next ensuing the ratification of this Act, all and every person or tradesman (except such as are among the Chickasaws, who shall take out licences the first of March next) that shall live, trade or deal either directly or indirectly with any Indians whatsoever, (except those commonly called Cusabes, viz. Santees, Ittavans, Seaweas, Stoanoes, Kiawaws, Kussos, Edistoos, St. Helenas,) for any furs, slaves, skins, or for any other commoditys whatsoever (provisions only excepted) shall first have a license under the hand and seal of the commissioners hereafter named, or any five of them; and every trader or tradesman or others, that shall take out such licence, shall pay unto the Publick Receiver for the time being, to be disposed of as hereafter is directed by this Act, the full sum of eight pounds currant money of this Province, and the licence so granted shall be and continue for the space of one year from the date thereof, and no longer. But in case any person or persons that desires such licence, shall make it appear to the satisfaction of the commissioners hereafter named, or any five of them that shall transact the business of this Act, that one year is too little time for their particular trade, that then the commissioners or any five of them shall have power to grant the licence or licences for longer time, not exceeding two years, paying proportionally for the longer time. Traders to take out a licence, and pay £8.

II. *Be it further enacted* by the authority aforesaid, That the commissioners hereafter named, or any five of them, shall have power to grant licences to the persons trading amongst the Indians, shall upon the granting every licence, bind the person that takes the said licence, with one or two sufficient sureties, in the penal sum of one hundred pounds currant money of this Province, the condition whereof shall be to perform and keep all and singular the instructions received under the hands and seals of the commissioners or any five of them nominated in this Act, and likewise to obey such orders as shall from time to time be given him by Bond with sureties to be given to Public Receiver in £100 currency.

A. D. 1707.

the agent hereafter appointed by this Act, provided they be just, and according to the true intent and meaning of this Act; and moreover shall not at any time hereafter directly or indirectly carry up or give, sell or any other ways dispose of to and amongst the Indians, any rum or other spiritts.

No spirituous
liquors to be
sold to Indians.

III. *And be it further enacted* by the authority aforesaid, That no person whatsoever shall sell any rum or other spiritts to any Indian, after the ratification of this Act, under the penalty aforesaid.

No ammunition
to be disposed
of to hostile
Indians.

IV. *Be it further enacted* by the authority aforesaid, That if any person whatsoever shall after the ratification of this Act, sell, give, or any other way dispose of any arms or ammunition of war, to any Indians who are open enemies to this Province, shall be, and he or they are hereby declared to be guilty of felony, without benefit of the clergy, and shall be liable to the same punishments which felons by the laws of England and of this Province now are. And the bonds to be given as aforementioned shall be to the Publick Receiver for the time being, and the said bonds to be kept by the Secretary particularly appointed for transacting the business of this Act, and the said bonds to be put in suit by order of the commissioners hereafter named, or any five of them, in the name of the Publick Receiver for the time being, in any court of record in this province, and the forfeitures recovered by such suit shall be paid to the Publick Receiver, to be disposed of by the order of the Generall Assembly; but the said commissioners, who shall order the putting such bond in suit, are hereby impowered and required to reward such persons as shall inform them of the forfeiture of such bond, in any sum not exceeding two thirds nor less than one half.

Commissioners
to frame
general
instructions.

V. *Be it further enacted* by the authority aforesaid, That the commissioners hereafter named, or any five of them, shall be impowered and are hereby required to frame general instructions to be given to all the traders who take out licences, and likewise particular instructions and orders, according to the diversity of time and place and other circumstances; which instructions and orders so given, such Indian trader or traders to whom the same is given, shall give due obedience to, upon the penalty of the forfeiture of his or their licence for trading, if the commissioners hereafter named or any five of them shall think fit.

Penalty for
trading without
licence.

VI. *And be it further enacted* by the authority aforesaid, That if any person whatsoever (except as before excepted) shall after the first day of October aforesaid, trade or deal, directly or indirectly, with any Indians except those before mentioned, for any furs, skins, slaves, or any other commodity whatsoever (provisions only excepted,) without first having obtained a licence from the commissioners hereafter named, or any five of them, or after such licence called in and declared void, as is above directed by this Act, for every such offence he shall forfeit the sum of one hundred pounds currant money of this Province, to be recovered and disposed of as is above directed.

VII. *Be it further enacted* by the authority aforesaid, That the agent hereafter named, and his successors, shall demand a view of each person's licence, yearly, who resides or comes to trade among the Indians, and upon any person's refusing to produce such licence, he is hereby impowered to seize and seal up such person's goods so trading, unless they give bond and security to produce a licence within two months; and if such person or persons have no effects to seize, the agent is hereby required to commit him or them to goal, unless they either depart or give sufficient securities to produce a licence in the time aforesaid.

VIII. *Be it further enacted* by the authority aforesaid, That if any person trading among the Indians, shall by his own confession or verdict of a jury in any court of session or goal delivery, be convicted of selling any free Indian for a slave, at any time after the ratification of this Act, shall for every such offence forfeit and pay the sum of sixty pounds currant money of this Province, to be recovered and disposed as is before appointed in this Act, and for want of such payment, shall receive such corporall punishment as the judges of the general sessions and gaol delivery shall think fitt, not extending to life or limb; and upon conviction of such offender, the Indian slave or slaves so sold are hereby declared free, and the person or persons that bought such slave or slaves shall have his action of debt, or on the case, to recover the full value against such person as sold the same, his executors or administrators. A. D. 1707.
Persons selling
a free Indian as
a slave.

IX. *And whereas* several gross abuses have at several times heretofore been committed by the Indian traders in extorting of skins, slaves, &c., from Indians, under the notion of presents for the Governours of this Province; to prevent which for the future, Be it enacted by the authority aforesaid, That if any person whatsoever, after the ratification of this act, shall threaten, perswade or any way overawe any Indian or Indians, to force them to give presents to the present or any other Governour of this Province, each person so offending shall, upon due proof thereof made to the commissioners aforesaid or any five of them, be lyable to pay the forfeiture of one hundred pounds currant money, to be recovered and disposed of after the method already mentioned in this act. Penalty on
obtaining goods
by threats.

X. *Be it enacted* by the authority aforesaid, That the Publick Receiver for the time being shall pay unto the present Governour and his successors the sum of one hundred pounds yearly, viz. twenty-five pounds every three months, the first three months to commence and begin from the day of the ratification of this act, and continue to be paid at the end of every three months afterwards, for ever, in place of and in lieu of all Indian presents whatsoever; and the Receiver for the time being shall, at the day of the ratification of this act, quit all claim to all Indian presents, of what kind or nature soever, for ever; except such as are already in the hands of some Indian trader or any other person or persons for the Governour. And all presents from the ratification of this act shall be the publick's, and shall be received by the agent, and the said agent and his lawful successors are hereby required and empowered to receive from the Indians all voluntary presents, which they are inclined to give to the Governour, after the ratification of this act, and remit the same to the Publick Receiver, for the use of the publick, to be sold by him for the benefit of the publick; and if the Governour for the time being shall receive and detain for his own use any presents in whole or in part after the ratification of this act, except as aforesaid, he shall be liable to pay the forfeiture of two hundred pounds for each present or part of present so detained, to be recovered as all other forfeitures are by this act. Compensation
in lieu of Indian
presents.

XI. *And for the further preventing abuses committed amongst the Indians, and for the more easy administering of justice, Be it enacted by the authority aforesaid, That Thomas Nairne shall be authorized and appointed, and is hereby authorized and appointed the agent to reside among the Indians, subject to the Government of South Carolina; and the said agent shall enter upon his office upon the twentieth day of August next ensuing, and put the powers given him by this Act, or the orders sent to* Resident
by Indian Agent
appointed.

A. D. 1707. him by the Commissioners hereafter named, or any five of them, in execution, and shall visit the principal towns among the Indians in amity with this Province, and enquire into their grievances, and shall endeavor by all prudent methods to redress the same.

To decide
disputes among
traders and
Indians.

XII. *And be it enacted* by the authority aforesaid, That Thomas Nairne, Esq., agent, or his lawful successors, shall have power, and are hereby impowered to decide and finally determine, upon hearing of evidences and both parties, all manner of differences among the traders themselves, or among traders and Indians, for any sum not exceeding tenn pounds, currant money of this Province, and that without any appeal whatsoever; and the decree of the said agent shall be allowed as a good barr against any suit or action that may afterwards be brought relating to the matter so decided in any Court of Record in this Province.

To amount of
£30 currency.

XIII. *Be it further enacted* by the authority aforesaid, That the agent before named shall have power, and is hereby impowered to hear and determine any difference among traders of any sum not exceeding thirty pounds, currant money of this Province; *Provided*, nevertheless, that if either of the parties be dissatisfied with the judgment given by the said agent, they may have liberty of appeal to the Commissioners aforesaid, who upon a summary hearing without jury, shall finally decide, alter or annull the judgment of the said agent, as they in equity and good conscience shall think fitt, without any appeal to any other judicature, for the sum aforesaid; *Provided*, nevertheless, that every person so appealing from the judgment of the agent aforesaid, shall before any hearing before the Commissioners, pay down the sum of five pounds to the Secretary hereafter named in this Act, which sum shall be forfeited to the use of the aforesaid Secretary, if the Commissioners fully confirme the decree of the agent, but otherwise to be wholly returned to the person who deposes the same; and the better to enable the said agent to find the truth in all matters in difference, he shall have power, and is hereby authorized and impowered to examine any white man upon his oath, whether for or against himselfe; and in case he or they so examined by the agent shall refuse to be sworn, or when sworn shall refuse to make answer to any question demanded of him by the said agent, that then and in such case the said agent may order such person to be taken into custody, and sent down and committed into the custody of the marshall in Charlestowne, and the marshall for the time being is hereby required and commanded to keep such person or persons safely confined in the prison till such time as he or they so committed shall enter into bond with one or more sureties to the publick Receiver, or the Receiver for the time being, conditioned that he will with convenient speed returne to the agent, and there answer truly upon oath, all such questions as shall be by him demanded about or touching the matter before him in difference. And for the effectual putting in execution all the warrants, orders and decrees of the said agent, it shall be lawful for the said agent, and he is hereby authorised and impowered to direct his orders or warrants to any of the white men inhabiting or being near the place where he then is, and the said person or persons to whom such warrant or order is directed, is hereby required and commanded to obey and execute the same, upon the penalty of ten pounds for every neglect, to be recovered and disposed of as hereafter is directed in this Act; and such person to whom such warrant or order is directed, in case he is not able himselfe to execute the same, shall have power to call any other white man to his aid or assistance, who is hereby required to aid and assist such person under the like penalty of the forfeiture of ten pounds for every neglect.

He may
examine
witnesses on
oath and
commit until,
&c.

Appeal given.

XIV. *And be it further enacted* by the authority aforesaid, That in case any Indian trader shall commit any misdemeanor for which he ought to be brought to tryall and punished by the known laws of this Province, that then and in such case the agent shall have power to send such person to Charlestowne to prison, there to be and remaine till he shall give bail, if the matter be bailable, or else to remaine till he be otherwise discharged by due course of law; and the said agent shall further have power, and is hereby authorized and impowered to order any of the Indians to be aiding and assisting to any white man, in order to bring down any white person or Indian ordered by the said agent to be sent to town, or otherwise to execute such warrants and orders as the said agent shall order and direct.

A.D. 1707.

Indian traders
guilty of
misdemeanors.

XV. *And be it further enacted* by the authority aforesaid, That beside the several powers and authorities hereby given to the said agent, and he is hereby authorized and impowered, in all places where he shall come or reside, to perform, do and execute all and singular the powers and authorities that any Justice of the Peace of the quorum may lawfully do in any county in this Province, as fully and as amply to all intents and purposes as if he had by name been put in any of the commissions for the peace usually granted in this Province.

Agent may act
as Justice of
the Peace.

XVI. *And be it further enacted* by the authority aforesaid, That in case the said agent shall commit any person to prison pursuant to the powers given him by this Act, in case such person so committed to prison shall have no partner or trusty servant, or friend with whom is willing to intrust his goods and effects, that then the said agent shall have power, and is hereby authorized and impowered to appoint any person to take the care and charge of goods and effects of the person so committed to prison as aforesaid, and to be accountable to him for the same, and party so ordered by said agent to take the care and charge of the effects of any person, shall be obliged to performe the same, and in case of wilful neglect or refusal, is hereby made accountable for any damages thereby sustained, to the party so committed to prison and grieved, as if he had actually taken his goods into his charge and possession.

Agent may
take charge of
the goods of
persons
committed to
prison.

XVII. *And be it enacted* by the authority aforesaid, That the agent aforesaid, or his successors, shall not be in the English Settlement above two months in the whole year, and that not at one time, but at two or more times, all which put together shall not exceed two months, under the penalty of ten pounds a week for each week he shall be in the settlement, during the space of one year above the time aforesaid, which forfeitures shall be recovered and disposed of as all others are by this Act.

The Agent not
to be absent
from his station
more than two
months in a
year.

XVIII. *And be it further enacted* by the authority aforesaid, That upon complaint made to the agent by word or writing from any person living in the settlement, that any trader or person residing among the Indians is in their debt, it shall then be lawful, and in such case the said agent is required and impowered to demand sufficient securitys from the person so complained against, that he will go to the complainant and either pay him or deliver himself up to be arrested, in order to a tryal at law; but if such person refuse to give sufficient securitys as aforesaid, then the agent is required and impowered to commit such person to prison, which commitment shall stand good in law, to all intents and purposes as if it been made by the usual form and method of arrests.

Indian traders
being debtors.

XIX. *Be it further enacted* by the authority aforesaid, That if the aforesaid agent or his lawful successors can procure any person or persons residing among the Indians, or who may hereafter go amongst them, to undertake to make any new discovery and settle any new trade, such

Persons making
any discovery.

A.D. 1707. person shall be rewarded by the House of Commons for such discovery, in such sum as they shall think fit.

Agent to take an oath.

XX. *And be it further enacted* by the authority aforesaid, That before the said Thomas Nairne, or his lawful successors, shall enter upon his or their office as agent, he shall take the following oath :

I, A. B. do faithfully promise and swear, to execute and perform all the powers and authorities given me by the Act for regulating the Indian trade, ratified the nineteenth day of July, 1707, and follow and obey all such orders and instructions as I shall receive from the said Commissioners, or any five of them, or cease to act as agent; and during the time of my acting as agent, I will neither directly nor indirectly trade with any Indian or Indians, or any other person whatsoever, in the way of Indian trade, except for provisions or other things absolutely necessary to enable me to perform the duty enjoined me by this Act, during the time of my agency; and that I will neither take any presents, fee, bribe or reward whatsoever, either from Indians or traders, or any person whatsoever, directly or indirectly, contrary to the true intent and meaning of this Act, but shall according to the best of my knowledge, do equal and impartial justice to all persons in all cases that shall come before me to be decided : So help me God. Which oath shall be taken before the Commissioners hereafter named, or any five of them, who are hereby impowered and required to administer the same. And in case the said Thomas Nairne, agent, or his successors, shall presume to enter upon the said office of agent before the taking of the aforesaid oath, that he or they so offending, shall forfeit and pay the sum of five hundred pounds, to be recovered and disposed of as all other fines are before appointed by this Act.

Penalty on persons refusing to interpret.

XXI. *And be it further enacted*, That the above named agent and his successors shall have power, and he is hereby impowered to send for such persons as he shall think proper, and swear them to interpret rightly the discourses which he shall have occasion to make unto the said Indians ; and if any person so sent for shall refuse to come, or being come shall refuse to be sworn as aforesaid, or being sworn, shall not rightly, fully and faithfully interpret, according to the best of his skill and ability, for every such offence, forfeit the sum of twenty pounds, by judgment of the Commissioners hereafter named, or any five of them, who are hereby required to order the same to be paid to the publick Receiver for the use of the publick, and to be disposed of after the method above mentioned.

Bond to be given by the Indian Agent.

XXII. *Be it further enacted*, That the agent shall be bound himselfe in the sum of two hundred pounds, and two sufficient securities in the sum of two hundred pounds each, to execute and perform all the powers and authorities given him by this Act, which bond shall be taken in the name of the publick Receiver for the benefit of the publick, and the Commissioners before named shall take the said bonds at the same time that they administer the oath aforesaid.

Salary £250 per annum.

XXIII. *Be it further enacted* by the authority aforesaid, That the said agent shall be allowed the sum of two hundred and fifty pounds yearly, as a salary in lieu of all dues whatsoever, for executing his office as agent, and the publick Receiver is hereby required to pay the same accordingly, at the end of every three months in the year, which time is to commence from the twentieth day of August next ensuing the date hereof, when the said agent is hereby obliged to set out on his progress among the Indians, and shall continue agent until removed by a vote of the House of Commons, who shall from time to time put out, call to an account, and put in place the aforesaid and all succeeding agents, according to their discretion forever.

XXIV. *And be it enacted* by the authority aforesaid, That Ralph Izard, Esq., Mr. James Cochram, Mr. Robert Fenwick, Colonel George Logan, Mr. Lewis Pasquereau, Mr. Richard Beresford, Mr. John Ash, Mr. John Abraham Motte, and Major John Fenwick, or any five of them, be and are hereby nominated and appointed the Commissioners mentioned in this Act, and they, or any five of them, shall meet at the times particularly appointed by this Act, or upon publick summons, as hereafter is directed, *Provided*, that the number that meets be not less than five, shall have power, and they are hereby authorized to grant licenses to the Indian traders, and to do all other things which are appointed to the commissioners in this Act to do, and shall cease to be such when and as often as they shall be thereunto required by a vote of the house of commons. And in case of the death or absence of any of the said commissioners, the major part of them remaining shall make choice of so many other persons in their place as shall still make up the number nine, and the persons so chosen shall continue till the end of the next sessions of the Generall Assembly of this Province, who shall then confirm or choose so many persons as shall make up the number nine, which persons so confirmed or chosen by a vote of the house of commons, shall be and are hereby declared to be the commissioners for this Act, as fully and amply, to all intents and purposes, as if they were by name inserted in the body of this Act, and shall so continue till removed by a vote of the house of commons.

A. D. 1707.

Commissioners appointed.

XXV. *And be it further enacted* by the authority aforesaid, That the said Ralph Izard, James Cochram, Robert Fenwick, Col. George Logan, Lewis Pasquereau, Richard Beresford, John Ash, John Abraham Motte, Major John Fenwick, or any other person or persons that shall hereafter be made a commissioner or commissioners according to this Act, shall, before his or their taking upon them the execution of all or any of the severall powers given him or them by this Act, make oath before any one Justice of the Peace of this Province, who is hereby impowered and required to administer such oath, that he or they will faithfully execute and perform the severall powers given him or them by this Act, to the best of his or their skill or knowledge, without favour or affection; and that he or they is not nor will, during his or their being a commissioner or commissioners as aforesaid, be any way, directly or indirectly, concerned in the Indian trade. And if any person shall act as commissioner before taking such oath as aforesaid, he shall forfeit the sum of one hundred pounds, to be recovered and disposed of as hereafter is directed by this Act.

Commissioners to be sworn.

XXVI. *And be it further enacted* by the authority aforesaid, That the first Tuesday in August and February shall be and is hereby declared to be fixed and certain times for the meeting of the said commissioners, at some convenient place in Charlestown, or in case of sickness or any other accident attending the said town, at such other convenient place as any five of the said commissioners shall appoint at any time five days before the times of their meeting, who shall constantly sit three days successively or more at every one of the said half yearly meetings, for the dispatch of the business of this Act; and shall also meet oftener at any time in the year, if upon any extraordinary occasion they shall be required by summons signed by the president whom the commissioners shall choose, after five days notice before the day for their meeting, and appointing a convenient place at Charlestown, or in case of sickness as aforesaid, in any other convenient place.

Meeting of the Commissioners

XXVII. *And be it further enacted* by the authority aforesaid, That the publick Receiver for the time being shall pay and is hereby required and

A. D. 1707.

Pay of the
Commissioners
10s. per day.

commanded to pay or cause to be paid to every one of the said commissioners that shall attend the meeting half yearly appointed for their sitting to dispatch the business of this Act as aforesaid, and also upon any other day or days that they shall be summoned to attend as aforesaid, at the rate of ten shillings each day to every commissioner for every day that he shall so meet and attend the business of this Act, as aforesaid.

XXVIII. *And be it further enacted* by the authority aforesaid, That the said commissioners, appointed by this Act, shall and may have a common seal to serve for the causes and businesses of them and their successors, and that it shall and may be lawfull for them and their successors to break, alter and make new the said seal, from time to time and at their pleasure, as they shall think best; and the said common seal shall be kept by the Secretary particularly appointed by this Act for transacting the business thereof.

Secretary
appointed.

XXIX. *And be it further enacted* by the authority aforesaid, That William Smith, Esq. is hereby constituted and appointed to be Secretary for transacting the business of this Act, and shall so continue untill he be required and commanded to cease to be so by a vote of the house of commons; and in case of his death or absence, then it shall be lawfull for the major part of the said commissioners to choose another Secretary, and the person so chosen shall continue so to be untill he be removed by a vote of the house of commons who shall first meet after his being put in by the commissioners aforesaid. And the said Secretary is hereby required to give no licence to any trader unless such trader or any person acting for him do produce a certificate from the publick Receiver for the time being that he hath paid the licence money appointed to be paid by this Act, which certificate the said Secretary and his successors shall keep as a record, in order to be laid before the Assembly when demanded.

20s. to be paid
the Secretary
for each
licence.

XXX. *Be it enacted* by the authority aforesaid, That the Secretary before named and his lawfull successors shall take and is hereby ordained to receive the sum of twenty shillings of each and every trader that shall hereafter take out a licence pursuant to this Act, which said sum is allowed the Secretary for drawing the licence, obligation and instructions for every trader, and likewise ten shillings per day for each day he sits and attends the commissioners.

In suits bro't
on this Act, the
general issue
may be
pleaded.

XXXI. *And be it further enacted* by the authority aforesaid, That if any action, suit or information shall be commenced or prosecuted against any person or persons for what he or they shall do in pursuance or execution of this Act, such person or persons so sued may plead the general issue not guilty, and upon issue joyned give this Act and the special matter in evidence, and if the plaintiff or prosecutor shall become non-suit or suffer discontinuance, or if the verdict pass against him, the defendant or defendants shall recover his or their treble costs, for which he or they shall have the like remedy as in any case where costs by law are given to the defendants.

*Read three times, and ratified in open Assembly,
the nineteenth day of July, Anno Dom. 1707.*

JAMES RISBEE,
CHAS. BURNHAM.

N. JOHNSON,
ROBERT GIBBES,
HENRY NOBLE,

NOTE.—Repealed by an Act of similar title, June 7, 1713, which also is repealed by Act of June 30, 1716, which last Act is also repealed by the Lords Proprietors, July 22, 1718. See also the Act for regulating the Indian trade, of March 20, 1713-9, for 5 years; repealed by Act of September 13, 1721—also repealed.

A. D. 1707.

AN ACT for the Better Settling and Regulating the Militia.

No. 270.

(Ratified July 19, 1707. See last volume.)

AN ACT TO LIMIT THE BOUNDS OF THE YAMASEE SETTLEMENT, TO PREVENT PERSONS FROM DISTURBING THEM WITH THEIR STOCKS, AND TO REMOVE SUCH AS ARE SETTLED WITHIN THE LIMITATION HEREAFTER MENTIONED.

No. 271.

WHEREAS nothing can conduce more under God to the repelling of an enemy which shall attempt to make an invasion in the south part of this Collony on the sea coast, by giving us timely notice thereof, than that the nation of Indians called Yamasees, and all other Indians within the limitation hereafter mentioned, be encouraged to abide in their present settlement; and that all reasons for their removal may be taken away,

I. *Be it enacted*, by his Excellency John Lord Granville, Palatine, and the rest of the true and absolute Lords and Proprietors of the Province of Carolina, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, That all that tract of land on the main, bounded to the north-east by Combohee river, to the south-east by the marshes and islands on Coosaw and Port Royal rivers, to the south-west by the Savanna river, and to the north-west by a line drawn from the head of Combohee river to the head of the Savana river, and also one Island lying between the Pocosabo town and the north branch of Port Royal river, commonly called Coosawhatchee, now inhabited by the said Yamasee Indians, to and for their use only.

Bounds of the
Yamasee
country.

II. *And be it further enacted* by the authority aforesaid, That no surveyor or other person whatsoever shall admeasure or lay out any of the said land unto any person, and that no person or persons do settle any stock of horses, hogs, neat cattle or any other stock whatsoever, within the limits aforesaid, after the ratification of this Act, under the penalty of one hundred pounds, to be recovered and disposed as hereafter is directed;—*Excepting* it shall be afterwards thought fitting to direct the laying out a convenient parcel of land for a church and church-yard and glebe lands, for the use of a minister, and also lands for the use of a school master, to instruct the said Indians in the Christian religion, which may be done, any thing in this Act to the contrary notwithstanding.

No part thereof
to be located or
surveyed for
any other
person.

III. *And whereas* severall persons have procured titles and stocks and improved some tracts of land within the limits aforesaid, which may prove prejudiciall to the Indian inhabitants if not removed; *Be it therefore enacted* by the authority aforesaid, That all such persons shall within one year after the ratification of this Act remove from all such tracts of land all his or their stock of neat cattle as aforesaid, (if possible,) and upon his or their refusing or neglect, shall forfeit the sum of one hundred pounds, to be recovered and disposed of as is hereafter directed.

Penalty on
settlers refusing
to remove.

IV. *And be it further enacted* by the authority aforesaid, That every person or persons who in compliance with this Act shall sell or remove their stocks from the said settlement, shall be reimbursed their full charges expended upon any improvements already made before the ratification of this Act, as also sufficient allowance for the removing their respective

Expenses of
removal to
be allowed.

A. D. 1707. stocks, out of the publick treasury, and the Receiver for the time being is hereby impowered and required to pay the same upon order from the Governour, as is hereafter directed by this Act, not exceeding the sum of four hundred pounds.

Valuers of
improvements
to be appointed.

V. *And be it further enacted* by the authority aforesaid, That the present Governour, or the Governour for the time being, shall direct his warrant to five persons, which five persons or any three of them are hereby authorized and impowered to value the several improvements made upon the aforesaid land, as also the charges of removeing every person's stocks from the said land, which every person shall be allowed accordingly; and the said five persons, or any three of them, shall return a certificate thereof upon oath to the said Governour, who thereupon is authorized and requested to issue out his order to the publick Receiver to pay the same, and the Receiver is hereby commanded and authorized to pay the same pursuant to the said order; and the said five persons, or any three of them, shall have for so doing, seven shillings and six pence per day, whilst they are therein employed, and shall be under the penalty of ten pounds each, if they do not repair to the place appointed within ten days after the warrant shall be given, not exceeding ten days in perfecting the same; and the Receiver is hereby appointed and authorized to pay the same accordingly.

Persons
claiming title.

VI. *And be it further enacted* by the authority aforesaid, That every person or persons who have right and title to any tract or tracts of land within the said limits, shall be fully satisfied for the charges he or they have been at for the same, and no more; which the Receiver is hereby impowered to pay, upon the producing the platts and grant of such tract and tracts of land.

When owners
may re-assume
their tracts.

VII. *And be it further enacted* by the authority aforesaid, In case the Yamasees remove from the aforesaid limits on their own accord, or by order of the Government, so that those persons may resettle their respective tracts of land, without disturbance to the Yamasees, that then those persons having (before the ratification of this Act) legal right and title to the aforesaid tract or tracts, shall have power and are hereby impowered to resume their respective tracts upon their former titles, they reimbursing the publick those several sums they are allowed by this Act, any thing in this Act to the contrary in any wise notwithstanding.

Recovery of
fines and
forfeitures.

VIII. *And be it further enacted* by the authority aforesaid, That the several fines and forfeitures contained in this Act shall be recovered by bill, plaint or information, in any court of record in this Province, wherein no essoign, protection, injunction or wager of law shall be allowed or admitted of, one third to him or them that will inform and sue for the same, and the other two thirds to the publick Receiver, for the use of the publick.

*Read three times and ratified in open Assembly,
the twenty-eighth day of November, Anno Dom. 1707.*

N. JOHNSON,
THO. BROUGHTON,
HENRY NOBLE,
JAMES RISBEE,
CHAS. BURNHAM.

NOTE.—The Yamasees having been engaged in war against the Colonists, and having deserted their lands, these lands were appropriated by Act of June 13, (or 30th,) 1716.—But this last Act was repealed by the Proprietors, July 23, 1718.

A. D. 1707.

No. 272.

AN ADDITIONAL ACT to an Act entituled an Act for repairing and expeditious finishing of the Fortifications in Charlestown, ratified the 12th day of July, Anno Domini 1707, and for making reparations to all persons for the damages they shall sustain by defending Charlestown, or any other place remote from the People's respective Divisions.

(Ratified November 28, 1707. The original Act extant. See last volume. Expired.)

AN ADDITIONAL ACT to an Act entituled an Act for the making and mending of Roads and Highways, and for the making a Bridge over Icsaw Creek in Craven County.

No. 273.

(Ratified November 28, 1707. Repealed by the last clause of the Highway Act of September 15, 1721. See last volume.)

AN ADDITIONAL ACT TO AN ACT INTITULED AN ACT FOR THE APPOINTING LOOK-OUTS AND PROVIDING NECESSARIES FOR THE SAME.

No. 274.

WHEREAS by an Act for appointing Look-outs and providing necessities for the same, ratified in open Assembly the fifth day of July, Anno Dom. 1707, severall persons are required to settle watches in severall distinct places, consisting each of one white man and one or more neighbouring Indians; but finding by experience that one white man is not sufficient,

Preamble.

I. *Be it therefore enacted* by his Excellency John Lord Granville, Palatine, and the rest of the true and absolute Lords and Proprietors of Carolina, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of the said Province, That Mr. William Edwards shall and is hereby required and empowered to appoint a watch somewhere on Chapman's Creek, consisting of two white men; that Captain John Whitmarsh shall appoint a watch on Edisto Island, or at the most convenient place, as the commissioners shall think fitt, consisting of two white men and two Edisto Indians; that Captain Jonathan Drake shall appoint a watch on Folly Island, ~~consisting of two white men and one hired Indian~~; that John Huggins shall appoint a watch on Bull's Island, consisting of two white men and two Sewee or neighbouring Indians; that Mr. Thomas Grimball shall appoint a watch on Watch Island, which lies to the southward of North Edisto River's mouth, consisting of two white men and one Edisto Indian.

Certain persons
impowered to
appoint
watches.

II. *And be it further enacted* by the authority aforesaid, That persons employed as watchmen, by virtue of this Act, shall be paid in like manner and be under the same restrictions as the watchmen are by the afore recited Act.

Watchers to be
paid as in the
former Act.

III. *And whereas* there is yet no sufficient encouragement given by any former law of this Province for taking up and securing slaves endeavouring to desert this Government; *Be it therefore enacted* by the authority aforesaid, That any watchman or other person whatsoever who shall take

Watchers
taking up
runaway
slaves.

A. D. 1707.

up any slave or slaves in boat, canoe, or any other vessel, on the sea coast or in any river within two miles of the sea, without a lawfull ticket, and shall bring the said runaways to his or their proper owner or overseer, shall receive for reward two pounds for each slave and six pence per mile for every mile, not exceeding twenty shillings for mileage. But if the persons taking up such slaves, know not the owners or overseers, or that the owners or overseers shall refuse to pay the said sum and mileage to them, that then and in either case, they shall carry such slave or slaves to the Marshall's house in Charlestown, on forfeiture of tenn shillings, to be paid to the owner or overseers, for every day they shall keep such slave or slaves exceeding four days; and the said Marshall is hereby required to pay such person or persons as in this Act is directed, and to keep such slave or slaves in custody, and to detain them till their owners or overseers shall repay him, together with one royal per day for each slave's being at his house; allways provided the said Marshall give publick intimation, by posting the same up in Charlestown.

To be in force
two years.

IV. *And be it further enacted* by the authority aforesaid, That this Act and every thing therein contained do continue in force two years from and after the ratification hereof, and from thence to the end of the next General sessions of Assembly after, and no longer.

*Read three times, and ratified, in open Assembly,
the twenty-eighth day of November, Anno Dom. 1707.*

N. JOHNSON,
THO. BROUGHTON,
HENRY NOBLE,
JAMES RISBEE,
CHAS. BURNHAM.

NOTE.—Repealed by Act of March 1, 1710–11, which also is expired.

No. 275. *AN ACT* FOR THE BETTER ENABLING THE RIGHT HONOURABLE THE GOVERNOR, OR THE GOVERNOR FOR THE TIME BEING, TO RAISE A FORCE AGAINST OUR PUBLICK ENEMIES, AND TO RAISE MONEYS TO DEFRAY THE CHARGES OF THE SAME, BY ESTABLISHING NEW BILLS OF CREDIT.

Preamble. ✓

WHEREAS this Province is lyable to suffer great injury for want of timely repelling an Indian enemy, or any other publick enemy; therefore, that there may be no delay in such a case, and that the Right Honourable the Governor, or the Governor for the time being, may be enabled speedily to defeat the ill designs of such our enemies,

Governor
impowered to
enlist soldiers. ✓

I. *Be it enacted* by his Excellency, John Lord Granville, Palatine, and the rest of the true and absolute Lords and Proprietors of the Province of Carolina, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, and by the authority of the same, That as many horsemen as the Right Honourable the Governor, or the Governor for the time being, shall think fitt, for the attacking and suppressing of the deserted Savannas or their confederates, as the nature of the expedition requires, he is hereby impowered to raise and enlist, and every souldier so enlisted to be well accoutred and fitted out, with a good fuzell or carabine, two

pistoles, a sword, cutlass, or hatchett, a sufficient quantity of powder, ball, flints and provisions, at his or their proper cost and charge; and each and every souldier so enlisted and provided as aforesaid, for his service in the said expedition shall have and receive seven shillings and sixpence per day, and the Captain and Lieutenant twelve shillings and sixpence per day each, to become due from the time he or they set out upon the said expedition, to the time of his or their return into the bounds and limits of Goose Creek, with all the slaves and other plunder by them taken, to be proportionably divided. A. D. 1707.

II. *And whereas* several of our Northern Indians, for want of armes ^{Ammunition enuggerated.} and ammunition, are thereby less capable of giving us their assistance against the enemy, and to encourage them the more to fall upon and attack the said enemys, *Be it enacted* by the authority aforesaid, That fifty guns, one thousand flints, two hundred pounds of powder, and four hundred pounds of bullets, be provided at the publick charge; and the Right Honourable the Governor, or the Governor for the time being, is hereby ~~impowered, as he shall see occasion and think necessary, to send up the said arms and ammunition to the chiefs and head men of our said Northern Indians, by them to be distributed amongst those Indians that shall need~~ the same for the said service; and that every Indian who shall take or kill an Indian man of the enemy, shall have a gun given him for his reward; and the remainder of the guns to be returned to the captain or commander commissioned by the Right Honourable the Governor, by the said captain to be disposed of for the use of the publick, and to be accountable for the same to the General Assembly.

III. And for the better encouragement of all persons to enlist themselves for such an expedition, *Be it enacted* by the authority aforesaid, ^{Allowance to white men enlisting.} That whatsoever white man serving in the said expedition shall be maimed in his body or limbs, and be thereby rendered incapable to get his living, such person or persons shall be allowed twenty pounds per annum during his life and residence in this Province, for his maintenance and support, and be taken care of for their healing and recovery at the publick charge, by an ordinance of the Generall Assembly; and that no person that shall enlist himself for such an expedition shall in his person or by his goods and chattels, be arrested, sued, attached or impleaded for any debt or demand whatsoever, by him owing to any person whatsoever, untill his return from the said expedition.

IV. *And be it further enacted* by the authority aforesaid, That if any person or persons happen to be killed in the aforesaid expedition, and is deserving of any share or part of the slaves and other plunder that shall be taken, (with his wages due to him,) then and in such case, the executors, administrators or assignes of such person or persons shall be as fully and absolutely entituled to the said share and wages of the deceased, as he or themselves might or could claim if living, by virtue of this Act. In case of soldiers killed.

V. And for the better security of this Province from any future attempts and ill designs of the aforesaid Indian enemys, which in all probability we may expect, if left remaining in this Province or sent off to the northward, for the prevention thereof, *Be it enacted* by the authority aforesaid, that the captain or other person commanding in chief, commissioned for such expedition as aforesaid, is hereby nominated and appointed commissioner to buy all prisoners of the said Indian enemy above the age of 12 years, that shall be taken captive either by white man or Indian, in the said expedition or heretofore; and the slaves so bought shall be taken care of and delivered by the said captain or other person commanding in chief to the publick Receiver, who is hereby required and commanded to pay all such sum or sums Captives taken how to be disposed of.

A. D. 1707.

of money that shall be drawn upon him by the commissioner aforesaid, for all such slave or slaves so purchased as aforesaid: And the publick Receiver is hereby impowered to ship off to some islands of the West Indies the slaves so bought and delivered to him by the commissioner aforesaid, to be there sold, or dispose of them here, for the use of the publick, to any person or persons who shall enter into bond with the penalty of two hundred pounds, not to carry or send any slave or slaves so bought by him or them to any port or place within this Province or to the northward thereof.

Provision in case of persons refusing to sell their slaves.

VI. *And be it further enacted*, That any white person or persons refusing to sell such slave or slaves to the commissioner aforesaid, shall within one month next after the first opportunity that presents, be obliged to ship off the same either by himself or some other person to some of the Islands of the West Indies, or forfeit such slave or slaves to the Receiver, for the use of the publick, to be disposed of as afore is appointed.

£3000 in twenty shilling bills to be raised.

VII. *And whereas* the right honourable the Governor for the time being cannot raise money for any expedition against an Indian or Christian enemy without the advice and consent of the House of Commons; and therefore, least good designs and prudent measures against our publick enemys should not be capable of being put seasonably in execution, and that the Generall or Governor for the time being might on all emergencys readily prevent the insults and hinder the progress of our enemys against us, *Be it therefore enacted*, That there be struck or stampd three thousand pounds, in twenty shilling bills, for the use of the publick, to be lodged in the hands of the publick Receiver for the time being, two thousand pounds of which bills shall be employed to the sinking of the twenty pound and ten pound bills now currant, for the causing a more ready and satisfactory currancy of our bills of credit, and that the other thousand pounds of the said bills be sealed and delivered into the hands of the publick Receiver for the time being, which shall be kept by him for to answer all extraordinary emergencys that shall happen upon sudden invasions or incursions of our forreigne or Indian enemys against us or our friendly Indians, and on no other account whatsoever; and on the aforesaid occasions it shall and may be lawfull for the right honourable the Governor, or the Governor for the time being, to draw out such sum or sums of money from the aforesaid sum of one thousand pounds, as shall be sufficient for every expedition against such our enemys, untill (if need require) the whole of the said one thousand pounds be exhausted or drawn out; an account whereof, with receipts to whom such sum or sums of money hath been paid by vertue of the Governor's order, shall be fairly kept by the Receiver, to be rendered to the House of Commons when he shall be thereunto required, as in all other accounts he is bound and obliged to do.

Former Acts imposing duties continued.

VIII. And that our publick credit may be good, and our fund and security for the sinking of the said bills indisputable, *Be it therefore enacted* by the authority aforesaid, That the impositions laid on severall goods imported into or exported out of this Province, by vertue of an Act entitled an Act to make and establish Bills of Credit for raising the sum of Eight Thousand Pounds, &c., ratified in open Assembly the fifth day of July, Anno Dom. 1707; and an Act to continue the Impositions on Liquors, &c., and for a Fund and Security for the payment of the sum of Eight Thousand Pounds for sinking the Bills of Credit, &c., ratified in open Assembly the twelfth day of July, Anno Dom. 1707; be, and are hereby enacted to continue as therein specified, for the term of one full year longer than is expressed in the said last recited Act, that is to say, untill the twelfth day of July, Anno Dom. 1712, and from thence to the end of the

next sessions of the Generall Assembly, and no longer, any thing contained in the said Acts to the contrary notwithstanding. A. D. 1707.

IX. *Be it further enacted* by the authority aforesaid, That if any person or persons shall counterfeit any of the said new bills, or knowing any of them to be false or counterfeit shall utter the same in any payment, then and in such case the counterfeiter, or any one aiding or assisting him, as well as the utterer or disposer of the said bills, being thereof duly convicted, shall be under the same penaltys, fines and punishments as such are for the said crimes by vertue of the aforesaid Act or Acts for counterfeiting the former bills of credit mentioned in the said Acts. Penalty on counterfeiting.

X. *And be it also enacted*, That the said new bills of credit shall be indented, signed, sealed and every way ordered and perfected under the hands and seal of the commissioners, as is appointed by the aforesaid Acts, or the majority of them; and the said bills, so perfected, shall be currant to all intents and purposes whatsoever, in all payments, as fully and amply as the bills of credit are by vertue of the said Act. The Bills of Credit to be indented.

XI. *And be it further enacted* by the authority aforesaid, That the said commissioners, or the majority of them, are hereby impowered and authorized to draw upon the publick Receiver for such sum or sums of money as the charges of stamping and finishing the said bills shall amount to, who is hereby impowered and required to pay the same; and the said commissioners shall be under the same oaths, directions, limitations, fines and penaltys as they were by vertue of the said Acts. Charges to be drawn for on the Public Receiver.

XII. *And whereas* in the eighth paragraph of the aforesaid Act to make and establish Bills of Credit, the whole of the overplus of the appropriated money in the treasury is to be disposed of and applied for and towards the payment of the debts due from the publick and sinking the new bills established by the said Act, whereby no moneys can be drawn out of the treasury on any exigency whatsoever, which may be to the great damage of this Province, *Be it therefore enacted* by the authority aforesaid, That an ordinance of the Generall Assembly shall be sufficient to draw out of the treasury any sum or sums of money that the contingent charges of the country shall require, from the overplus money that is not appropriated by the aforesaid or any other Act or Acts whatsoever; and that whatsoever sum or sums of money hath been paid by the former or the present Receiver by vertue of an ordinance of the Generall Assembly, shall be held and is hereby made and declared good and lawfull, any thing contained in the before recited or any other Act or Acts to the contrary notwithstanding. On what fund.

XIII. *And be it further enacted* by the authority aforesaid, That the publick Receiver, or the Receiver for the time being, is hereby impowered to pay per order of the present Governor, or the Governor for the time being, the agent, or by himself, such sum or sums of money for the defraying the charges of maintaining Indians who shall come into the settlement upon any publick account, as bringing down of presents, French or Spanish prisoners, and to give the said Indians, as a reward for takeing and bringing down such prisoner or prisoners, any sum not exceeding five pounds for each prisoner as aforesaid; and that such sum or sums of money already paid by the Receiver on the aforesaid account, not exceeding the limitations aforesaid, are hereby allowed and declared to be good and lawfull. Draughts on the Receiver by the Governor to be paid.

Read three times, and ratified in open Assembly, Feb. 14, 1707-8.

N. JOHNSON,
HENRY NOBLE,

NICHOLAS TROTT,
CHAS. BURNHAM.

Repealed by Act of April 24, 1708, which is also repealed by Act of March 20, 1718-9.

A.D. 1708.

No. 276. AN ACT for the better Regulateing the Watch in Charlestown, and for settleing and maintaining a Watch at the Fort to be built on Windmill Point.

(Ratified April 24, 1708. See last volume.)

No. 277. AN ACT FOR RAISING THE SUM OF FIVE THOUSAND POUNDS.

WHEREAS, this Province is liable to suffer great injuries for want of a timely repelling an Indian or any other publick enemy; therefore, that there may be no delay in such a case, and that the Right Honourable the Governour, or the Governour for the time being, may be enabled speedily to defeat the ill-designes of such our enemies, and that there may always be a sufficient treasure to carry on such good designs,

An enlistment
to be employed
against the
revolted
Savannahs.

I. *Be it enacted* by his Excellency John Lord Granville, Palatine, and the rest of the true and absolute Lords and Proprietors of the Province of Carolina, by and with the advice and consent of the rest of the members of the Generall Assembly, now met at Charlestown for the south-west part of the said Province, and by the authority of the same, That as many horsemen as the Right Honourable the Governour, or the Governour for the time being, shall think fitt for the attacking and suppressing of the revolted Savannahs, or their confederates, as the nature of the expedition requires, he is hereby impowered to raise and enlist, and every soldier so enlisted, to be well accoutred and fitted out with a good fuzell or carbine, and two pistols, and a sword or cutlas or hatchet, a sufficient quantity of powder, ball, flints and provisions, at his or their own proper cost and charge; and each and every soldier so enlisted and provided as aforesaid, for his service in the said expedition shall have and receive seven shillings and six pence per day, and the captain and lieutenant twelve shillings and six pence per day each, to become due from the time he or they setts out upon the same expedition, to the time of his or their return into the bounds and limits of Goose creek, with all the slaves and other plunder by them taken, to be proportionably divided.

Arms and
ammunition
specified.

II. *And whereas*, several of our northern Indians, for want of armes and ammunition, are thereby the less capable of giving us their assistance against the enemy; to encourage them the more to fall upon and attack the said enemyes, *Be it enacted* by the authority aforesaid, That fifty guns, one thousand flints, two hundred pound of powder, four hundred pound of bullets, be provided at the publick charges, and the Right Honourable the Governour, or the Governour for the time being, is hereby impowered, as he shall see occasion and think necessary, to send up the said armes and ammunition to the Cheif or head men of the said Northern Indians, by them to be distributed amongst those Indians that shall need the same for the said service; and that every Indian who shall take or kill an Indian man of the enemy, shall have a gun given him for his reward, and the remainder of the guns to be returned to the captain or commander commissioned by the Right Honourable the Governour, by the said captain to be disposed of for the use of the publick, and to be accountable for the same to the General Assembly.

III. And for the better encouragement of all persons to enlist themselves for such an expedition, *Be it enacted* by the authority aforesaid,

That whatsoever white man serving in the said expedition shall be maimed in his body or limbs, and be thereby rendered incapable to get his living, such person or persons shall be allowed twenty pounds per annum during his life and residence in this Province, for his maintenance and support, and be taken care of for the healing and recovery, at the publick charge, by an ordinance of the General Assembly; and that no person that shall enlist himselfe for such an expedition, shall in his person, or by his goods and chattles, be arrested, sued, attached, or impleaded for any debt or demand whatsoever, by him owing to any person whatsoever, until his return from the said expedition.

A. D. 1708.

Premium for enlisting.

IV. *And be it further enacted* by the authority aforesaid, That if any person or persons happen to be killed in the aforesaid expedition, and is deserving of any share or part of the slaves and other plunder that shall be taken, with his wages due to him, then and in such case, the executors, administrators or assignes of such person or persons, shall be as fully and absolutely entituled to the said shares and wages of the deceased as he or themselves might or could claim, if living, by this Act.

In case of loss of life.

V. And for the better security of this Province from any future attempts and ill-designes of the aforesaid Indian enemies, which in all probability we may expect, if left remaining in this Province, or sent off to the northward, for the prevention thereof, *Be it enacted* by the authority aforesaid, That the captain or other person commanding in cheif, commissioned for such an expedition as aforesaid, is hereby nominated and appointed commissioner to buy all prisoners of the said Indian enemies, above the age of twelve years, that shall be taken captive either by white man or Indian in the said expedition, as heretofore; and the slaves so bought shall be taken care of and delivered by the said captain or other person commanding in cheif, to the publick Receiver, who is hereby required and commanded to pay all such sum or sums of money that shall be drawn upon him by the commissioner aforesaid, for all such slave or slaves as he the said commissioner shall purchase, not exceeding the sum of seven pounds for every Indian slave. And the publick Receiver is hereby impowered to ship off to some islands of the West Indies the slaves so bought and delivered to him by the commissioner aforesaid, to be there sold, or dispose of them here for the use of the publick, to any person or persons who shall enter into bonds, with the penalty of two hundred pounds, not to send or carry any slave or slaves so bought by him or them, to any part or place within this Province, or to the northward thereof.

Captains authorized to buy prisoners for slaves.

Such slaves to be sent to the West Indies.

VI. *And be it further enacted* by the authority aforesaid, That any white person or persons refusing to sell such slave or slaves to the commissioner aforesaid, shall within one month next after the first opportunity that presents, be obliged to ship off the same, either by himselfe or some other person, to some of the islands of the West Indies, or forfeit such slave or slaves to the Receiver for the use of the publick, to be disposed of as afore is appointed.

Persons refusing to sell such slaves.

VII. *And whereas* the Right Honourable the Governour for the time being cannot raise money for any expedition against an Indian or christian enemy without the advice and consent of the House of Commons, and therefore, lest good designes and prudent measures against our publick enemies should not be capable of being put seasonably in execution, and that the Governour, or Governour for the time being, might on all emergencies readily prevent insults and hinder the progress of our enemies against us, *Be it therefore enacted*, That there be struck or stampd, five thousand pounds, in twenty shilling and forty shilling bills, for the use of the publick, to be lodged in the hands of the publick Receiver for the time

£5000 to be issued in 30s. bills and 40s. bills.

A. D. 1708.

being, and that the said bills be sealed and delivered into the hands of the publick Receiver for the time being; four thousand pounds shall be kept by him for defraying the contingent charges of the publick; the other one thousand pounds for to answere all extraordinary emergencies that shall happen upon sudden invasions or incursions of our forreigne or Indian enemyes against us or our friendly Indians, and on no other account whatsoever; and on the aforesaid invasions it shall and may be lawful for the Right Honourable the Governour for the time being to draw out of the publick treasury such sum or sums of money from the aforesaid sum of one thousand pounds as shall be sufficient for every expedition against such our enemyes, (if need require) until said sum of one thousand pounds be exhausted or drawn out; an account whereof, with receipts to whom such sum or sums of money hath been paid by virtue of the Governour's order, shall be fairly kept by the Receiver, to be rendered to the House of Commons when he shall be thereunto required, as in all other accounts he is bound and obliged to do.

Duties imposed
by former Acts
continued.

VIII. And that our publick credit may be good, and our fund and security for sinking of the said bills indisputable, *Be it therefore enacted* by the authority aforesaid, That the impositions laid on several goods imported into or exported out of this Province, by virtue of an Act entituled an Act to Make and Establish Bills of Credit for Raising the Sum of Eight Thousand Pounds, &c., ratified in open Assembly the fifth day of July, Anno Domini one thousand seven hundred and seven, and an Act to Continue the Imposition on Liquors, &c., and for a Fund and Security for the Payment of the Sum of Eight Thousand Pounds for Sinking the Bills of Credit, ratified in open Assembly the twelfth day of July, Anno Domini one thousand seven hundred and seven, be and are hereby enacted to continue as therein specified, for the term of two years longer than is expressed in the said last recited Act, that is to say, until the twelfth day of July, Anno Domini one thousand seven hundred and fourteen, and from thence to the end of the next sessions of the General Assembly, and no longer, any thing contained in the said Acts to the contrary notwithstanding.

Penalty for
counterfeiting.

IX. *Be it further enacted* by the authority aforesaid, That if any person or persons shall counterfeit any of the said bills, or knowing any of them to be false or counterfeit, shall utter the same in any payment, then and in such case the counterfeiter, or any one aiding or assisting him, as well as the utterer or disposer of the said bills, being thereof duly convicted, shall be under the same penalties, fines and punishments as such are for the said crimes by virtue of the aforesaid Act or Acts, for counterfeiting the former bills of credit mentioned in the said Acts.

The bills to be
indented.

X. *And it is also enacted*, That the said new bills of credit shall be indented, signed, sealed and every way ordered and perfected under the hands and seal of the Honourable Colonel Thomas Broughton, William Smith, Richard Beresford, Esq., Colonel George Logan and Mr. John Abraham Motte, or the majority of them; and the said bills so perfected shall be current to all intents and purposes whatsoever, in all payments, as fully and amply as the bills of credit are by virtue of the aforesaid Acts.

Charges of
stamping the
bills to be paid
by the public
Receiver.

XI. *And be it further enacted* by the authority aforesaid, That the said commissioners, or the majority of them, are hereby impowered and authorized to draw upon the publick Receiver for such sum or sums of money as the charges of stamping and finishing the said bills shall amount to who, is hereby impowered and required to pay the same; and the said commissioners shall be under the same oaths, directions, limitations, fines and penalties as they were by virtue of the said Acts.

XII. *And whereas*, in the eighth paragraph of the aforesaid Act to make and establish bills of credit, the whole of the overplus of the appropriated money in the Treasury is to be disposed of and applied for and towards the payment of the debts due from the publick and sinking the new bills established by the said Act, whereby no moneys can be drawn out of the treasury on any exigency whatsoever, which may be to the great damage of this Province; *Be it therefore enacted* by the authority aforesaid, That an ordinance of the General Assembly shall be sufficient to draw out of the treasury any sum or sums of money that the contingent charges of the country shall require, from the overplus money that is not appropriated by the aforesaid or any other Act or Acts whatsoever; and that whatsoever sum or sums of money hath been paid by the former or the present Receiver, by virtue of an ordinance of the General Assembly, shall be held and is hereby declared good and lawful, any thing contained in the before recited, or any other Act or Acts, to the contrary notwithstanding.

A. D. 1708.

Ordinance of the General Assembly sufficient authority to draw money.

XIII. *And be it further enacted* by the authority aforesaid, That the publick Receiver, or the Receiver for the time being, is hereby impowered to pay per order of the present Governour, or the Governour for the time being, the agent, or by himself, such sum or sums of money for the defraying the charges of maintaining Indians who shall come down into the settlement upon any publick accounts, as bringing down of presents, French or Spanish prisoners, and to give the said Indians as a reward for taking and bringing down such prisoner or prisoners, any sum not exceeding five pounds for each prisoner as aforesaid; and that such sum or sums of money already paid by the Receiver on the aforesaid account, not exceeding the limitations aforesaid, are hereby allowed and declared to be good and lawful.

Expenses of friendly Indians to be paid.

XIV. *And be it further enacted* by the authority aforesaid, That an Act entituled an Act for the better enabling the Right Honourable the Governour, or the Governour for the time being, to raise a force against our publick enemies, and to raise moneys to defray the charges of the same, by establishing new bills of credit, ratified in open Assembly the fourteenth day of February, one thousand seven hundred and seven-eight, be repealed, and is hereby declared repealed, annulled and made void, any thing in the said Act to the contrary notwithstanding.

Act of 14th Feb. 1707-8, repealed.

*Read three times, and ratified in open Assembly,
this 24th day of April, Anno Domini 1708.*

N. JOHNSON,
HENRY NOBLE,
JAMES RISBEE,
NICHOLAS TROTT,
CHARLES BURNHAM.

NOTE.—Repealed. See Act of June 30, 1716, Sect. 34; and Act of 20th March, 1718-9. Repealed by the Proprietors, July 24, 1719.

AN ACT for enlisting such trusty Slaves as shall be thought serviceable to this Province in time of allarms. No. 278.

(Ratified April 24, 1708. Expired. See last volume.) ✓

A.D. 1708.

No. 279. AN ACT for the building a Fortification on Windmill Point, and to barr up and lay booms across the Channel of Ashley River, and to cast up Trenches along the White Point and other necessary places, and to provide a Publick Store of Provision, Ammunition and Small Arms, and to draw Money out of the Publick Treasury to defray the Charges of the same.

(Ratified April 24, 1708. The original Act not now to be found. One section preserved by Trott. *See last volume.*)

No. 280. AN Additional ACT TO AN ACT ENTITLED AN ACT FOR THE ESTABLISHMENT OF RELIGIOUS WORSHIP IN THIS PROVINCE ACCORDING TO THE CHURCH OF ENGLAND, AND FOR THE ERECTING OF CHURCHES FOR THE PUBLIC WORSHIP OF GOD, AND ALSO FOR THE MAINTENANCE OF MINISTERS AND THE BUILDING CONVENIENT HOUSES FOR THEM.

Preamble.

WHEREAS, by an Act of Assembly of this Province, duly ratified in open Assembly the thirtieth day of November, in the year of our Lord one thousand seven hundred and six, entituled an Act for the Establishment of Religious Worship in this Province, &c., amongst other things it was enacted that Berkley county shall be divided into six more parishes besides Charlestown, that is to say, one upon the south-east of Wando river, which shall be called by the name of Christ Church; one upon the neck of land lying on the north-west of Wando and south-east of Cooper river, which shall be called by the name of St. Thomas; one upon the western branch of Cooper river, which shall be called by the name of St. John's; one upon Goose Creek, which shall be called by the name of St. James, Goose Creek; one upon Ashley river, which shall be called by the name of St. Andrew's; and one in the Orange quarter, for the use of the French settlement there, which shall be called by the name of the parish of St. Dennis. And also that Colleton county shall be divided into two parishes, that is to say, one on the south side of Stono river, to extend to the north side of South Edisto, which shall be called by the name of St. Paul's, and the other on the north side of St. Helen's, which shall be called by the name of St. Bartholomew's. And also that one parish shall be erected in Craven county, in that part of it which is called by the name of St. James's, on Santee river—as by the said recited Act, reference being thereunto had, will more fully appear. But in the said recited Act, the limits and bounds of the said several parishes are not particularly exprest, whereby differences, disputes and contentions have already risen, and more may hereafter arise, concerning the same: For the preventing of which evils and inconveniencies;

Bounds of the
several
parishes.

I. *Be it enacted* by his Excellency William Earl of Craven, Palatine, and the rest of the true and absolute Lords and Proprietors of the Province of Carolina, by and with the advice and consent of the rest of the members of the General Assembly, for the south-west part of the said Province, and by the authority of the same, That the above mentioned parish on the south-east of Wando river, called the parish of Christ Church, shall be, and is hereby bounded to the north-east by a large creek or river, commonly called Awindaw creek, or Seawee river, being the bounds of Craven county, to the south-east by the sea, to the west by Wando river,

and to the north-west, partly by the said river, and partly by a line drawn from the Cowpen of Captain Robert Daniel, on the swamp of the head of Wando river exclusive, to the cowpen of Joseph Wigfall, on the head of the said Awindaw creek or Seawee river inclusive. And the said parishes on the neck of land lying on the north-west of Wando and south-east of Cooper river, called St. Thomas and St. Dennis, shall be and is hereby bounded, to the north-east by the bounds of Craven county, to the south by the bounds of Christ Church parish and Wando river, to the west by Cooper river, to that tract of land commonly called the Hagin, inclusive, and to the north by the eastern branch of the said Cooper river, to the plantation of the Right Honourable Sir Nathaniel Johnson, Knight, Governour, inclusive, and then by an east line from the northernmost part of the said plantation to the bounds of Craven county. And the said parish on the western branch of Cooper river, called St. John's, shall be and is hereby bounded to the north-east by the bounds of Craven county, to the south by the bounds of the said parishes of St. Thomas and St. Dennis, and by the eastern branch of Cooper river, then down Cooper river to the mouth of the Back river, to the south-west, partly by the said Back river to the plantation of David Durham inclusive, and partly by a north west line from the west part of the said Durham's plantation to the north-west bounds of Berkley county, and to the north-east by the said bounds of the said county. And that the said parish upon Goose Creek, called St. James, Goose Creek, shall be, and is hereby bounded, to the north-east by the bounds of St. John's parish aforesaid, and the Back river, to the east by Cooper river, to the bounds of the parish of St. Philip's, Charlestown, to the south by the bounds of the said St. Philip's, and to the south-west by a north-west line from the northernmost corner of the plantation or tract of land formerly belonging to Mr. Christopher Smith, deceased, the bounds of St. Philip's parish unto the north-west bounds of Berkley county, and to the north-west by the said bounds of the said county. And the said parish upon Ashley river, called St. Andrew, shall be and is hereby bounded to the north-east by the said north-west line from the north bounds of the plantation of the said Christopher Smith, aforesaid, to the north-west bounds of Berkley county, the bounds of the said parish of St. James, Goose Creek, to the south-east by the sea, to the south-west by Stono river and the bounds of Colleton county, and to the north-west by the north-west bounds of Berkley county.

A. D. 1708

St. Thomas and
St. Dennis
Parishes.St. John's
parish.St. James
parish.St. Andrew's
parish.

II. *And whereas* by the above-mentioned limits and bounds of the several parishes of St. Thomas and St. Dennis, the said parish of St. Dennis is included in the said bounds, and it will be difficult at present to fix the bounds of the said parish of St. Dennis, lying in the midst of the bounds, and designed at the present only for the use of the French Settlement, which at present are mixt with English; *Be it therefore further enacted* by the authority aforesaid, That the French congregation of the church of St. Dennis only, shall be liable to the charges and parochial duties belonging to the said church, during the time that the divine service of the said congregation be in the French language; and that for the future, when the service shall be performed in the English language, the said church of St. Dennis shall become a chappel of ease to the said parish church of St. Thomas.

The French
congregation of
St. Dennis to
pay all the
parochial dues
of that church,
whilst services
are in French.

III. *And be it further enacted* by the authority aforesaid, That the said parish in Colleton county, on the south side of Stono river, to extend to the north side of South Edisto, called St. Paul's, shall be, and is hereby bounded to the north-east by the said Stono river and the bounds of Berkley county, to the south-east by the sea, and to the west by South Edisto

Parishes in
Colleton
county.

A. D. 1708. river. And that other parish in the said Colleton county, on the north side of St. Helen's, called St. Bartholomew, shall, and is hereby bounded to the east by the said South Edisto river, to the south-east by the sea, to the north-west by St. Hellenah Sound, Combahee river, and the bounds of Granville county, and to the north-west by the north-west bounds of Colleton county.

Bounds of the
Parish of St.
James, Santee.

IV. *And be it further enacted* by the authority aforesaid, That the said parish in Craven county, called St. James, Santee, shall be, and is hereby bounded, to the north-east by Santee river, to the south-east by the sea, and to the south-west by Berkley county.

Commissioners
to settle
disputes,

V. *And be it further enacted* by the authority aforesaid, That in case any differences or disputes shall hereafter arise, concerning the limits or bounds of any of the several parishes above mentioned, that the same shall be finally decided and determined by the commissioners for the time being, appointed in the above recited Act, for the Establishment of Religious Worship, &c., commonly called the Church Act.

And appoint
new bounds if
necessary

VI. *And whereas* the bounds of the several parishes specified and expressed in this Act may, when being put in practice, be found not so practicable and convenient as in time experience may further shew, *Be it further enacted* by the authority aforesaid, That any time after the ratification of this Act, it shall and may be lawfull for the commissioners appointed in the Church Act, for the time being, if they see cause at any time, to alter the bounds and limits of any parish, and to sett and appoint new bounds and limits, and such bounds and limits so sett and appointed shall be the bounds and limits of such parish and parishes, as fully to all intents and purposes as if particularly expressed in this Act, any thing in this Act to the contrary notwithstanding.

*Read three times, and rutified in open Assembly,
the 18th day of December, 1708.*

N. JOHNSON,
THO. BROUGHTON,
RICH. BERESFORD,
ROBERT GIBBES.

No. 281. AN ACT FOR ASCERTAINING THE FEES RELATING TO THE OFFICE AND DUTY OF A JUSTICE OF THE PEACE.

Preamble.

WHEREAS the office of a Justice of the Peace is an office of great antiquity, trust and authority, and upon the faithful and diligent discharge whereof the preservation of the peace, tranquillity and good order of this Province doth in a great measure depend; and forasmuch as most of the fees incident to the said office are not as yet regulated and ascertained: Therefore, in order to regulate and ascertain the same, and to the intent as well to obviate all exactions and extortions, which are and ought to be odious and prohibited in all well governed kingdoms, commonwealths and provinces, as to encourage the several Justices of the Peace of this Province in the faithful and diligent discharge of their duty and office,

I. *Be it enacted* by His Excellency William Lord Craven, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the Generall Assembly, now met at Charlestown, for the south-west

part of this Province, and by the authority of the same, That no Justice of the Peace in this Province, shall demand or require any sum of money, fee or reward for any matter, business, or thing, belonging to his office of Justice of the Peace, other than such and so much fees as are hereafter in the annexed table of fees set down, limited and appointed, upon the forfeiture of one shilling for every penny he shall take or receive for any business, thing or matter, relating to the office of Justice of the Peace, more than is by this Act set down and appointed, the one moiety of the said forfeitures to be paid to the commissioners of the poor for the use of the poor of the parish where such Justice of the Peace doth dwell, and the other moiety to the party grieved, which shall sue for the same within six months after the receipt of such money or thing. All which forfeitures under forty shillings shall be recovered before any one Justice of the Peace, as is directed by an Act entitled an Act for the Tryal of Small and Mean Causes; all above forty shillings to be recovered by original writt, bill, plaint or information, in any of the courts of record within this province, in which suit no wager of law, essoign, priviledge, protection or any other delay shall be allowed or admitted of.

A. D. 1709.

No Justice to demand higher fees than herein appointed.

II. *And be it further enacted* by the authority aforesaid, That if it do happen that any Justice of the Peace shall in the due execution of his office do any business, thing or matter relating to his said office for which a certain fee is not limited and appointed in the table of fees hereunto annexed, in such case the Justice of the Peace shall take such and so much fee as shall be thought reasonable and limited and appointed by the Chief Justice of this Province for the time being, who is hereby authorized to appoint and limit the same; which fees so limited and appointed by the Chief Justice shall continue to be good and lawful until disapproved of by the General Assembly.

Fees not in the table to be limited by the Chief Justice.

III. And no Justice of the Peace shall take or receive any or greater fee or thing for any business or matter for which a certain fee is not appointed in the table of fees hereunto annexed, before the same be appointed and limited as aforesaid, upon the pain of the forfeiture of eighteen pence for every penny he shall so demand or take, the said forfeiture to be to the same use and recovered in the same manner as the forfeitures before by this Act are ordained and appointed.

Penalty.

IV. *And be it further enacted* by the authority aforesaid, That this Act and every thing therein contained, do continue in force two years, and from thence to the first sessions of the next General Assembly after, and no longer.

THE JUSTICE OF THE PEACE HIS FEES.

	L.	S.	D.
For a Warrant of the Peace,	3	1	1
For a Recognizance,	5	0	
For Administering an Oath,	1	3	
For a Common Warrant,	1	3	
For a Special Warrant,	2	6	
For a Mittimus,	2	6	
For a Liberate,	2	6	
For a Warrant of Hue and Cry,	2	6	
For taking a Deposition,	2	6	
For attesting the Return for an Appraisment,	2	6	
For a Probate to any writing,	2	6	

A. D. 1709.	For a Certificate for wild beast heads, }	1	3
	When ten shillings, }		
	When five shillings, }		7½

*Read three times and ratified in open Assembly,
the seventh day of May, 1709.*

N. JOHNSON,
GEORGE SMITH,
THO. BROUGHTON,
RICH. BERESFORD.

No. 282. AN ACT for Settling a Watch in Charlestown.
(Ratified 7th May, 1709. *See last volume.*)

No. 283. AN ACT TO REVIVE AND CONTINUE THE SEVERAL ACTS WITHIN
MENTIONED.

WHEREAS, divers of our temporary laws, which by experience have been found useful and beneficial, are now expiring; therefore, for reviving the same,

1. *Be it enacted* by his Excellency William Earl of Craven, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, with the advice and consent of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, and by the authority of the same, That an Act entituled an Act for the Entry of Vessells, ratified in open Assembly the 8th day of October, 1698, and revived by an Act entituled a Reviving Act, ratified in open Assembly the 5th day of July, 1707; and an Act entituled an Act for Ascertaining Publick Officers Fees, ratified in open Assembly the 8th day of October, 1708, and revived by an Act entituled a Reviving Act, ratified in open Assembly the 1st day of July, 1707; and an Act entituled an Act Inhibiting the Tradeing with Servants and Slaves, ratified in open Assembly the 16th day of March, 1695-6, and revived by an Act entituled a Reviving Act, ratified in open Assembly the 5th day of July, 1707; and an Act entituled an Act to prevent Marriners and Seamen running into Debt, ratified in open Assembly the 16th day of March, 1695-6, and revived by an Act entituled a Reviving Act, ratified in open Assembly the 5th day of July, 1707; and an Act entituled an Act for the Prevention of Runaways deserting this Government, ratified in open Assembly the 1st day of March, 1700, and revived by an Act entituled a Reviving Act, ratified in open Assembly the 5th day of July, 1707; an an Act entituled an Act for the Tryal of Small and Mean Causes, ratified in open Assembly the 15th day of October, 1692, and revived by an Act entituled a Reviving Act, ratified in open Assembly the 5th day of July, 1707; and an Act entituled an Act for the Encouragement of Killing and Destroying Beasts of Prey, ratified in open Assembly the 8th day of May, 1703, and revived by an Act entituled a Reviving Act, ratified in open assembly the 5th day of July, 1707; and an Act entituled an Act to raise the Currant Coyne and for the promoting the Currency of Heavy Money, ratified

in open Assembly the first day of March, 1700, and revived by an Act entituled a Reviving Act, ratified in open Assembly the first day of July, 1707; and an Act to Erect a General Post Office, ratified in open Assembly the twelfth day of July, 1707; and an Act for the Raising a Publick Store of Powder for the Defence of this Province, ratified in open Assembly the twelfth day of July, 1707—are hereby declared revived, continued and enacted to be in force for and during the full term and time of two years after the ratification hereof, and from thence unto the end of the first sessions of next General Assembly, and no longer.

A.D. 1709.

*Read three times, and ratified in open Assembly,
this seventh day of May, 1709.*

N. JOHNSON,
GEO. SMITH,
THO. BROUGHTON,
RICH. BERESFORD.

NOTE.—The Acts No. 88, 135, 136, 164, 165, 184, 188, 210, and the Acts for Raising a Publick Store of Powder, and for erecting a General Post Office, of Sessions July 1707, are revived and continued for two years.

AN ACT for cutting and clearing a Creek out of the head of New-town Creek into Stono River. No. 284.

(Ratified 7th May, 1709. Repealed by the Highway Act of September 15, 1721, sect. last. See last volume.)

AN ACT TO SETTE A GUARD IN JOHNSON'S FORT ON WINMILL POINT. No. 285.

WHEREAS, the Fort lately built upon the Winmill Point cannot be of any use to the safety of this Province, without a sufficient guard is kept therein;

I. *Be it enacted* by his Excellency William Lord Craven, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the members of the General Assembly, now met at Charlestown, for the South-west part of this Province, and by the authority of the same, That the guard in the said Fort shall consist of a Captain, one Lieutenant and twelve men; that the Captain and Lieutenant be appointed and receive their commission from the Governour for the time being, and that the twelve men be listed by the Captain, and that they be under military discipline, and turned out and cashiered at the pleasure of the Governour of this Province for the time being.

II. *And be it further enacted* by the authority aforesaid, That within ten days after the ratification of this Act, there shall be a watch every night kept within the aforesaid Fort at Winmill Point, consisting of twelve men, and that the Captain and Lieutenant shall give due attendance every night in the year, and the said Captain and Lieutenant shall from time to time observe, perform and keep all such orders and directions for the managing and keeping of the said guard, as they shall from time to time receive from the Governour of this Province, under the penalty (for every neglect

A nightly
watch of 12
men appointed.

A. D. 1709.

or offence committed, and being thereof convicted, before any one Justice of the Peace of this Province) of forfeiting the sum of five pounds, to be abated out of their salary hereafter mentioned; and the said twelve men shall from time to time observe and performe and keep all such orders and directions, for the better keeping the said guard, as they shall from time to time receive from their Captain or Lieutenant, upon the penalty for every neglect thereof or offence committed, and being thereof convicted before any one Justice of the Peace of this Province, of forfeiting the sum of twenty shillings, to be deducted out of his or their pay or salary hereafter mentioned, or of suffering such corporal punishment as the Captain or Lieutenant for such fault by special orders and instructions from the commander in cheif shall inflict upon or order to be inflicted upon him or them, not extending to life or limb, the said corporal punishment to be such as are usually used as military punishments.

To be armed
and accounted.

III. *And be it further enacted* by the authority aforesaid, That all and every soldier or watchman appointed or listed under the Captain and Lieutenant, to keep guard in the said fort, shall be compleatly armed and fixed with ammunition, as any soldier or inhabitant is ordered and directed by the militia Act, and the Act for Appointing Look Outs, and shall dwell and make their residence in the said fort, and shall not absent themselves in the night time, and be at all times ready to receive their orders from the said Captain or Lieutenant.

Soldiers
neglecting their
duty.

IV. *And be it further enacted* by the authority aforesaid, That if any soldier or centry that shall watch in the said fort, after he or they are put upon duty shall be drunk or make themselves incapable to performe their trust, or shall sleep upon the watch or absent himselfe from the said watch, he or they so offending, being thereof convicted before any one Justice of the Peace of this Province, shall forfeit twenty shillings, to be abated out of his wages, and further shall undergo such military corporal punishment (life and limb excepted) as the commander of the watch shall think fit, by order and instructions from the Commander in cheif.

Officer's and
soldier's pay.

V. And the better to incourage the Captain and Lieutenant and the twelve listed watchmen to be diligent and faithful in their several duties and stations, *Be it enacted* by the authority aforesaid, That the Captain be paid and allowed to him the sum of seventy pounds per annum, current money of this Province, and that the Lieutenant be paid fifty pounds per annum, like current moneys, and that each listed soldier or watchman be paid twenty-five pounds per annum, like current moneys, to be paid quarterly by the Receiver for the time being, out of the publick Treasury, who is hereby required and commanded to reserve and keep always in his hands the sum of two hundred and ten pounds, to be ready from time to time to pay off the said watch.

Winmill Fort
to be a
rendezvous.

VI. *And be it further enacted* by the authority aforesaid, That the said fort on Winmill Point is hereby appointed to be the rendezvous of the companys on James's Island in case of an alarm, and the inhabitants of the said island are hereby commanded to appear in the said fort under their respective commanders, till further orders from the Governour or Commander in cheif for the time being.

VII. *And whereas*, by an Act of Assembly intituled an Act for the Raising the Sum of Five Thousand Pounds, ratified in open Assembly the twentieth-fourth day of April, one thousand seven hundred and eight, amongst other things it was enacted, that one thousand pounds of the afore mentioned five thousand pounds should be kept in the Receiver's hands, to answere extraordinary emergencies that should happen, and that it should be lawfull for the Right Honourable the Governour for the

time being, upon all emergent occasions, to draw as much, or all of the said thousand pounds, as would defray the charges of any emergent occasion. But forasmuch as it is absolutely necessary, in order to pay and discharge severall debts due from the publick, for which there is not money in the publick Treasury to pay and discharge the same, which will be a great hardship upon many poor labourers to whom the publick is in debt; *Be it therefore enacted* by the authority aforesaid, That it shall and may be lawfull for the publick Receiver, and he is hereby ordered and required to pay out of the said thousand pounds all such debts as are now due, or as shall become due from the publick to any person or persons whatsoever, and an account whereof, with receipt to whom such sum or sums of money hath been paid out of the said thousand pounds, to be rendered to the House of Commons, when he shall be thereunto required, as in all other Act she is bound and obliged to do; and that that paragraph in the afore recited Act relateing to the manner and way of disposing of the said thousand pounds, and every thing therein contained relating to the way and manner of disposing of the same, be repealed, annulled and made void, any thing in the said Act or paragraph to the contrary in any wise notwithstanding.

A. D. 1769.

Receiver to
pay debts due
from the public
and to render
an account.

VIII. *And whereas*, now in this time of war and imminent danger it may be necessary, in order to put a stop to the sudden insults and incursions of our French, Spanish and Indian enimies, that a power be lodged in the Right Honourable the Governour, or the Governour for the time being, in case of any such actual and sudden invasion, to draw such sum or sums of money out of the publick Treasury as shall be thought convenient and necessary to defray the charges of the same; *Be it therefore enacted* by the authority aforesaid, That upon any invasion of our enemies, the French and Spaniard, by sea, or our enemies, the French and Spanish Indians, within land, or insurrections from our friendly Indians, or upon the discovery of any French or Spanish privateer being on our coast, if it shall be thought convenient and necessary to dispatch any number of men, vessels, periaugers or boats to annoy or put a stop to the enemy, or to send any number of men within land, that then and in such case, the Right Honourable the Governour, or the Governour for the time being, is hereby impowered and desired to draw out of the publick Treasury such sum or sums of money as shall be sufficient to defray the charges of such sudden invasion or incursion as aforesaid, not exceeding the sum of one thousand pounds. And the publick Receiver is hereby ordered and required to pay out of the publick Treasury all such sum or sums of money as shall be drawn on him by an order under the hand and seal of the Right Honourable the Governour, or the Governour for the time being, for the use aforesaid; provided, the said orders do not exceed the sum of one thousand pounds as aforesaid.

Governor to
draw upon the
Treasury in
case of sudden
invasion.

IX. *And whereas*, it is thought convenient for the better encouragement and adding to the yearly salary of the Captain of Johnson's Fort, on Winmill Point, that the sum of one shilling and three pence be paid the Captain of the said fort from the commander of every vessell that shall take clearance and go from the port or harbour of Charlestown; *Be it therefore enacted* by the authority aforesaid, That every master of every vessell that shall come into this port or harbour as aforesaid, upon his going out and departing from the same, shall before he so depart or go away, pay, or cause to be paid unto the said commander, the sum of one shilling and three pence, which was formerly given to Captain Walker for his permit to saile.

Tax upon
masters of
vessels
entering or
departing.

A.D. 1709.

X. And be it further enacted, That this Act and every thing therein contained shall continue in force two years, and from thence to the end of the sessions of the next General Assembly, and no longer.

*Read three times, and ratified, in open Assembly,
this seventh day of May, 1709.*

N. JOHNSON,
GEORGE SMITH,
THO. BROUGHTON,
RICHARD BERESFORD.

Expired.

No. 286. AN ORDINANCE of the General Assembly Directing the Manner how the Juries shall be drawn.

(Ratified May 7, 1709. Repealed by the Jury Act of 20th Aug. 1731. Section 45. The original of the present Ordinance not now to be found.)

No. 287. AN *Additional* ACT to an Act for Making and Mending Highways and Paths, and for Cutting of Creeks and Water Courses.

(Ratified November 5, 1709. Repealed by the Highway Act of Sep. 15, 1721; last section. *See last volume.*)

No. 288. AN ACT FOR REGULATING TAVERNS AND PUNCH HOUSES.

WHEREAS, the unlimited number of taverns, tap houses and punch houses, and the want of sobriety, honesty and discretion in the owners and masters thereof, have and will encourage all such vices as usually are the production of drunkenness and idleness; for prevention whereof,

I. *Be it enacted* by his Excellency, William Lord Craven, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, *And it is enacted* by the authority of the same, That no person shall sell any wine, cider, beer, brandy, rum, punch, or any strong drink whatsoever, under the quantity of one gallon at one draught, until he, she or they have first obtained a licence from the publick Receiver of this Province, for the time being, for the selling such the aforesaid liquors under the quantity aforesaid, shall forfeit every time he, she or they shall sell any quantity less than one gallon, the sum of forty shilling, current money of this Province, to be recovered by warrant and prosecution before any one or more Justices of the Peace, in like manner as in the Act for Trial of Small and Mean Causes is provided, one half to the publick Receiver, for the use of the publick, the other half to him that will prosecute and sue for the same.

Licence to be
taken out.

II. *And be it further enacted,* for the better prevention, suppression and punishment of such vices as are commonly practised in such publick houses,

That any two Justices of the Peace shall have power, and are hereby empowered to put in execution all laws, both statute and common, of the Kingdom of Great Britain, which have been provided and used, and are now in force, for or concerning the abuses or disorders of taverns, ale houses or victualing houses, and retailing any sort of strong liquors whatsoever, and the owners and masters thereof, and all persons which, contrary to the said laws, do haunt and frequent the same, as fully and effectually to all intents and purposes as the same ought or could be within the Kingdom of Great Britain, by any or every person therein thereunto impowered; and every person which shall offend, contrary to the said laws, or any of them, are hereby declared to be, and are made liable to the same forfeitures and penalties to be levied and inflicted, as by the same is accustomed and appointed in the Kingdom of Great Britain.

A. D. 1769.

Any two Justices may execute this Act.

Laws of England in force relating to public houses.

III. *And be it further enacted* by the authority aforesaid, That every person which, after the ratification hereof, shall, or doth retail any strong liquors, shall pay to the publick Receiver of this Province, for the time being, for each licence for selling the same, for the time and term of one year after the date of the said licence, the sum of five pounds, currant mony of this Province, for retailing of wine and all sorts of strong liquors, and three pounds, currant monys, for retailing of any or all sorts of strong liquors, (wine excepted.)

Five pounds to be paid for a licence.

IV. *And be it further enacted* by the authority aforesaid, That every person shall at the time they receive their licence, or before, give bond to the publick Receiver for the time being, which bond shall be taken by the Receiver in his own name, for the use of the publick, with such penalties and in such manner and form as in the like cases are usual in the Kingdom of Great Britain; *Provided*, always, and it is hereby enacted, That no person shall pay the aforesaid sum of mony for a licence, within one whole year after the first payment aforesaid; and all persons which have taken licence from the Right Honourable Sir Nathaniel Johnson, Knight, shall not be obliged to pay for a licence before the expiration of the time for which they have respectively paid, any thing in this Act contained to the contrary notwithstanding.

Bond to be entered into by persons licensed.

Proviso as to persons already licensed.

V. *Provided*, nevertheless, and it is hereby enacted, That any planter may sell liquors to his neighbours, to be drank and expended in the buyer's respective plantations, without a licence for the same. And every planter or person not inhabiting in Charlestown, which shall sell liquors to any person, and suffer the same to be expended in his own house or plantation, without a licence for so doing, shall forfeit as in the like case is before appointed.

Proviso as to planters.

VI. *And whereas*, several persons of late have used in boats and canoes to carry liquors from plantation to plantation, to retail and sell the same, which is observed to be very mischievous, and to impoverish the other sober planters, *It is hereby enacted*, That every person which hereafter shall carry any liquors from house to house, either by land or water, to sell and retail the same, shall for each time he, she or they shall be convicted thereof, forfeit the sum of forty shillings, to be recovered in such manner and form, and for such uses as other forfeitures in this Act is ordained and appointed.

Penalty for carrying liquors from house to house.

VII. *And whereas*, by a former Act entitled an Act for Regulating of Taverns and Punch Houses, ratified in open Assembly the tenth day of September, Anno Dom. 1702, it was then thought convenient to give and grant to Sir Nathaniel Johnson, Knight, late Governour of this Province, all the monys arising by the licenses afore mentioned, and now taken into the publick Treasury of this Province, for the use of the publick, and that

A. D. 1709.

Allowance to
the Governor.

by a moderate calculation, it hath been found to amount to the sum of one hundred and twenty pounds per annum, in consideration whereof, *Be it enacted*, and it is hereby enacted by the authority aforesaid, That from and after the ratification of this Act, the sum of one hundred and twenty pounds per annum shall be paid, and the publick Receiver for the time being is hereby impowered and ordered to pay to the Right Honourable Edward Tynte, Esq., Governour of this Province, at quarterly payments, the said sum of one hundred and twenty pounds per annum, currant mony of this Province, in lieu of the aforesaid license mony.

Fee for
writing the
bond.

VIII. *And be it further enacted* by the authority aforesaid, That the publick Receiver for the time being shall have and receive for the use of the publick, from every person to whom he shall grant a licence for selling any of the liquors aforesaid, the sum of seven shillings and six pence, for writing the bond and licence, and no person hereafter shall claim or demand any fee for the same; any clause in this Act or any other to the contrary notwithstanding.

Limitation of
this Act.

IX. *And be it further enacted* by the authority aforesaid, That this Act, and every thing therein contained, do continue in full force for and during the time the Right Honourable Edward Tynte, Esq., is Governour of this Province, and no longer.

*Read three times, and ratified in open Assembly,
this 14th day of January, 1709.*

EDWARD TYNTE,
F. TURBERVILLE,
ROBERT GIBBES,
THO. BROUGHTON,
ED. GURKES.

No. 289. *A Further Additional ACT* TO AN ACT ENTITLED AN ACT FOR THE ESTABLISHMENT OF RELIGIOUS WORSHIP IN THIS PROVINCE ACCORDING TO THE CHURCH OF ENGLAND, AND FOR THE ERECTING OF CHURCHES FOR THE PUBLIC WORSHIP OF GOD, AND ALSO FOR THE MAINTENANCE OF MINISTERS AND THE BUILDING CONVENIENT HOUSES FOR THEM.

Preamble.

WHEREAS, by an Act of Assembly of this Province, duly ratified in open Assembly the thirtieth day of November, in the year of our Lord one thousand seven hundred and six, entituled an Act for the Establishment of Religious Worship in this Province, according to the Church of England, and for the erecting of Churches for the publick Worship of God, and also for the maintenance of Ministers, and for the building convenient houses for them, amongst other things it was enacted, That the church wardens and vestry of each parish be authorized and required to take constant care to satisfy and pay the parochial charges and all necessary repairs and amendments of their respective churches, chappels or church-yards, and cause the same at all times to be repaired and amended, as need shall require, out of such gifts, goods and chattels as shall come to their hands for the church or parish use, and also out of such fines, forfeitures and mulcts by this law incurred, and afterwards by the same given to the church wardens, to be applied to the said uses; and in case they shall not have sufficient effects to pay parochial charges as aforesaid, or to make such necessary repairs as are required; then, and not otherwise, it shall be

lawful for the respective vestries of each parish, to order three sober and discreet persons to assess such sum as shall be necessary to repay the parish charges aforesaid, (provided the same exceed not one hundred pounds) by an equal assessment of the estate, real and personal, of all and every the inhabitants, owners and occupiers of lands, tenements and hereditaments, or any personal estate, within the several parishes; which assessment being returned to the said vestry upon oath, who are hereby empowered to administer an oath accordingly, and being by them approved in open vestry, it shall then be lawful for any Justice of the Peace of the county, by a warrant under his hand and seal, directed to any of the constables of the several parishes, to levy the sum assessed upon each person, by distress and sale of such person's goods as shall refuse the same, returning the overplus after reasonable charges deducted; and for want of such sufficient distress, to commit the person to prison till payment be made; and the several constables of this Province are hereby required to execute such warrant, under the penalty of the forfeiture of ten pounds for every neglect; as by the said recited Act of Assembly, reference being thereunto had, will fully appear. *And whereas*, it hath by experience been found inconvenient, dilatory and troublesome to levy the parochial charges upon the several parishioners, and those that have estates and effects in the parish, as by the above recited Act is ordered and directed, and that it would be far more convenient, expeditious, and to the satisfaction of the generality of the inhabitants, to have the same paid out of the publick Treasury; therefore,

A. D. 1710.

I. *Be it enacted* by his Excellency William Lord Craven, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the Generall Assembly, now met at Charlestown for the south and west part of this Province, and by the authority of the same, That in case the church wardens and vestry of each parish shall not have sufficient effects to pay parochial charges, and to make such necessary repairs as are required, that then it shall be lawful for the respective vestry of each parish to draw upon the publick Receiver such sum of money as shall by them be thought necessary to repay the parish charges and repairs aforesaid; *Provided* the same exceed not forty pounds current money, and that no vestry of any one parish draw upon the publick Receiver above once in a year, for parochial charges and repairs aforesaid; and that there be annexed to such order the particular accounts, by which it may appear for what the charges do arise, that the same are for the repairs of the church and church-yard, and the paying the salaries due to the clerk and sexton, publick register, and books for the registering, and not for any plate or other ornaments for the church, or any other matter or thing whatsoever. And such orders drawn by the vestries of any of the several parishes of this Province, upon the publick Receiver, and approved of by the commissioners appointed by the above recited Act for the Establishment of Religious Worship, &c., or by the major part of them, that shall meet either upon the usual days, viz. the second Tuesday in January, or the second Tuesday in July, or at any other time, upon publick notice thereof, as the said Act directs; *Provided* the number that shall so meet are not less than seven, the publick Receiver is hereby authorized, required and commanded to pay such sum or sums of money as shall be so drawn upon him by the vestry of any of the several parishes, to defray the parish charges and repairs as aforesaid, and approved of as aforesaid.

In case the church wardens shall not have sufficient effects, the vestry to draw upon the public Receiver.

II. *And whereas*, there hath lately been an order of the vestry of the parish of St. Philip's Charlestown, for the sum of ninety-three pounds, to

A. D. 1710.

The arrears of the parochial charges of St. Philip's Charlestown to be paid out of the publick Treasury.

be levied upon the parishioners of the said parish, for the parochial charges and repairs of the said parish; *Be it further enacted* by the authority aforesaid, That the said sum of ninety-three pounds be levied and paid according to the several assessments upon the parishioners of the said parish, in order to discharge the said parish of so much of their debts as the said sum shall amount unto. And that for all such other sums of money as the said parish of St. Philip's Charlestown is indebted, to discharge the repairs of the said parish church, and the salaries of the clerk and sexton, to the time of the ratification of this Act, that the church wardens of the said parish do draw up a particular account of the same, which being approved of by the vestry of the said parish, it shall be lawful for the said vestry to draw their order on the publick Receiver, which order, with the account annexed, being approved of by the commissioners of the above recited Act for the Establishment of Religious Worship, &c., or the major part of them, as before directed in this Act, the publick Receiver is hereby authorized, required and commanded to pay the same.

Also the arrears of the rest of the several parishes.

III. *And be it further enacted* by the authority aforesaid, That the several respective parishes of this Province be made equal, by having all the parochial charges of each and every respective parish paid out of the publick Treasury, that is to say, all such debts as are due from every of the said parishes, before the ratification of this Act.

No provision made for repairing buildings;

The church wardens shall order the same to be repaired;

IV. *Whereas*, by the laws of this Province there is no provision made for the repairing the several dwelling houses, and other buildings standing on the several glebes, and belonging to the rectors of the several parishes of this Province; and in case the ministers or rectors of the several parishes should be obliged to keep their several houses in repair, it would be too great a burthen upon them; *Be it therefore enacted* by the authority aforesaid, That it shall be lawful for the several church wardens of the several parishes, at any time, upon the request of any of the rectors of the parish to which they belong, or otherwise as they shall think fitting, with the assistance of such workmen or other persons as they shall think fitting to take with them to view the several houses belonging to the said rectors or ministers, and see what is wanting and necessary to be done for the repairs of the same, and shall make as near an estimate as they can of the charges thereof, and shall lay the same before the vestries of the said parishes, and being approved of by them, shall cause the same to be repaired accordingly; and the charges thereof being given unto the said vestries, and approved by them, it shall be lawful for the said vestries to draw an order upon the publick Receiver of this Province for the payment of the same; and such order drawn by the vestries of any of the several parishes of this Province upon the publick Receiver, and approved of by the commissioners appointed by the above recited Act for the Establishment of Religious Worship, &c., or the major part of them, as before directed by this Act, the publick Receiver is hereby authorized, and required and commanded to pay the same.

And the several rectors to keep the same in repair.

V. *And be it further enacted* by the authority aforesaid, That after the houses and out-houses of each glebe or parsonage, in the several parishes, being put in good order and well repaired, the several respective ministers of each of the several parishes are hereby appointed to keep their houses and out-houses in good order and repair during their abode in the said parish; and that no vestry shall have power to draw out of the treasury from the publick Receiver, above once for such repairs of any of the several parishes, after the ratification of this Act.

VI. *Whereas*, the rector of the parish of St. Philip's Charlestown being allowed a salary of only one hundred and fifty pounds, Carolina money,

per annum, but hath nothing allowed him in England from the Honourable Society for the Propagation of the Gospel in Foreign Parts, by which means the rector or minister of the said parish is worse provided than any other of the rectors or ministers of the several parishes, who ought to be the best provided for, not only as it is the head or chief place of this Province, but also in consideration of the great expenses that must necessarily attend the rector or minister of the said parish, by reason of the dearness of all things in Charlestown; *Be it therefore enacted* by the authority aforesaid, That the present rector of St. Philip's Charlestown, the Reverend Mr. Gideon Johnson, having a numerous family, shall have fifty pounds per annum added to his salary, for so long time as he continues minister of the said parish, to be paid him out of the publick Treasury of this Province, half yearly, as the other salary of one hundred and fifty pounds is ordered and directed to be paid, by the above recited Act for the Establishment of Religious Worship.

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Rector of St. Philip's Charlestown to have £50 per annum added to his salary.

VII. *And be it further enacted* by the authority aforesaid, That as to all and singular the several sums of money appointed by this Act to be paid out of the publick Treasury of this Province, the publick Receiver for the time being is hereby authorized, required and commanded to pay the same out of the remaining part of the money received for the duties upon Skins and Furs, after payment of the ministers' salaries appointed by the above recited Act of Assembly of this Province, for the Establishment of Religious Worship, &c., commonly called the Church Act. And the said remaining part of the monies received upon the duties upon Skins and Furs, after the payments above mentioned being deducted, is hereby appropriated to the payment of the several sums of money appointed by this Act to be paid; and the publick Receiver for the time being is hereby strictly charged and required to reserve and pay the same accordingly, under the same penalties and forfeitures which are to be incurred by the Act intituled an Act to continue an Act for Laying an Imposition on Furs, &c., and for Appropriating the same, for misapplying the monies thereby raised, any thing in the said Act to the contrary hereof in any wise notwithstanding. And in case the remaining part of the monies received out of the duties upon Skins and Furs, after the deduction aforesaid, shall not be sufficient to discharge the several sums of money appointed to be paid by this Act, that in such case, what is wanting to discharge the same, the said publick Receiver for the time being, is hereby strictly charged and required to pay the same out of any other publick money that shall be in the Treasury.

The several sums of money appointed by this Act, to be paid out of the money received for the duties on Skins and Furs.

In case the money falls short, out of any other publick money.

VIII. *And whereas*, several factious and seditious persons have given out in speeches, that the above recited Act for the Establishment of Religious Worship in this Province, &c., is not a lawful Act of Assembly of this Province, and have encouraged and incited the people not to give obedience to the same; therefore for the preventing all doubts, scruples and disputes that may arise concerning the authority of the said Act intituled an Act for the Establishment of Religious Worship in this Province, according to the Church of England, and for the erecting of Churches for the Publick Worship of God, and for the maintenance of Ministers, and the building convenient houses for them, ratified in open Assembly the said thirtieth day of November, 1706, and also one other Act of Assembly intituled an Additional Act to an Act intituled an Act to continue an Act intituled an Act for Laying an Imposition on Furs, &c., and for the appropriating the same, ratified in open Assembly the 5th day of February, one thousand seven hundred and six-seven; *Be it further enacted* by the authority aforesaid, That the above mentioned Acts, and all and every

The Church Act and the Act that appropriates the duties on Skins and Furs, &c., are confirmed by this Act.

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clause and article contained in the same, except wherein altered by this Act, are hereby ratified and confirmed, and the same Acts are hereby declared and enacted to be Acts of Assembly of this Province, and as such, ought to be reputed, taken and obeyed by all the people of this Province, as fully and amply to all intents and purposes as if the said Acts and all and every article, clause and thing therein contained, were herein again enacted and repeated, and at large and particularly recited and set down in the body of this Act, any thing to the contrary hereof in any wise notwithstanding.

*Read three times and ratified in open Assembly,
this 8th day of April, 1710.*

EDWARD TYNTE,
F. TUBERVILLE,
ROBERT GIBBES,
ROBERT DANIELL,
THO. BROUGHTON.

NOTE.—The Acts herein referred to are No. 256 and 280.

No. 290. **AN ACT FOR THE FOUNDING AND ERECTING OF A FREE SCHOOL, FOR THE USE OF THE INHABITANTS OF SOUTH CAROLINA.**

Preamble.

WHEREAS, it is necessary that a Free School be erected, for the instruction of the youth of this Province in grammar and other arts and sciences and useful learning, and also in the principles of the christian religion; and whereas several charitable and well disposed christians, by their last wills and testaments, have given several sums of money for the founding of a free school, but no person as yet is authorized to take the charge and care of erecting a free school, according to the intent of the donors, and to receive the said legacies, if tendered, nor to demand the same, in case of refusal to pay the same; so that, for want of some person or persons, or body politick and corporate, proper for the lodging the said legacies therein, the same are not applied according to the pious and charitable intention of the testators or donors;

Commissioners
appointed and
incorporated.

I. *Be it therefore enacted* by his Excellency William Lord Craven, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, and by the authority of the same, That the Honourable Colonel Edward Tynte, Esq., Governour, Colonel Thomas Broughton, Esq., Landgrave Joseph Morton, Mr. William Gibbon, Colonel George Logan, Richard Beresford, Esq., Arthur Middleton, Esq., Captain John Abraham Motte, Colonel Hugh Grange, Ralph Izard, Esq., Lieutenant Colonel Alexander Parris, Esq., Captain Lewis Pasquereau, Doctor Gideon Johnston, Doctor Francis Lejau, Mr. Alexander Wood, and Nicholas Trott, Esq., or any nine of them, and their successors, to be elected in manner as hereafter is directed, be, and shall forever hereafter be one body politick and corporate, in deed and in name, by the name of the Commissioners for founding, erecting, governing, ordering and visiting a School for the use of the Inhabitants of South Carolina; and that they and their successors, by the same name, by the authority aforesaid, be fully made, ordained, constituted and declared one body politick and corporate, in deed and in name, and that by the same name they and their successors shall

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and may have perpetual succession; and that they and their successors by that name shall and may forever hereafter be persons able and capable in law to purchase, have, take, receive and enjoy to them and their successors, lands, messuages, tenements, rents, liberties, privileges, jurisdictions, franchises, and other hereditaments whatsoever, of whatsoever nature, kind, quality or value they be, in fee, and in perpetuity; and also estates for lives and for years, and all other manner of goods, chattels and things whatsoever, of what name, nature, quality and value soever they be, for the better support and maintenance of masters or teachers for the said school, and also for the erecting of school houses and convenient dwelling houses for the accommodation of the said several masters and teachers. And that, by the name aforesaid, they shall and may be able to plead and be impleaded, answer and be answered unto, defend and be defended, in all courts and places whatsoever, and before whatsoever judge or judges, justice or justices, or other officer or officers belonging to this Province, in all and singular actions, complaints, pleas, matters and demands of what kind, nature and quality soever they be. And to act and do all other matters and things in as ample manner and form as any other the inhabitants of this Province, being persons able and capable in law, or any other body corporate or politick, by the laws of England can or may have, purchase, receive, possess, take, enjoy, grant, set, let, demise, plead and be impleaded, answer and be answered unto, defend and be defended, do, permit and execute. And that the said commissioners, and their successors for ever hereafter, shall and may have a common seal to serve the causes and business of them and their successors, to change, break, alter and make new the said seal, from time to time, and at their pleasure, as they shall think best.

II. And for the better execution of the purposes aforesaid, *Be it further enacted* by the authority aforesaid, That the said commissioners and their successors for ever, shall and may on the second Tuesday in July, yearly, meet at some convenient place, to be appointed by the president of the said commissioners, between the hours of eight in the morning and five in the afternoon, and that they, or the major part of such of them that shall then be present, shall choose one president and vice president, and such other officers, ministers and servants as shall be thought convenient, to serve in the said offices for the year ensuing; and that the said president and all officers then elected shall, before they act in their respective offices, take an oath, to be to them administered by the president, or, in his absence, by one of the vice presidents of the year preceeding, who are hereby authorized to administer the same, for the faithful and due execution of their respective offices and places, during the said year.

III. *And be it further enacted* by the authority aforesaid, That the first president of the said commissioners shall be the Honourable Colonel Edward Tynte, Esq., Governour, and that the said president shall, within three days after the ratification of this Act, cause summons to be issued to the several commissioners herein particularly mentioned, to meet on the second Tuesday of June next ensuing, at such place as he shall appoint, and that they, or the major part of such of them as shall then be present, shall proceed to the election of such other officers, ministers and servants, as to them shall seem meet; which said officers, from the time of their election into their respective offices, shall continue therein until the second Tuesday in July, which will be in the year of our Lord one thousand seven hundred and eleven, and from thenceforward until others shall be chosen in their places, in manner aforesaid.

Meetings to be held every 2nd Tuesday in July and officers to be chosen.

The President to issue summons.

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Provision in
case of death
or absence of
officers.

IV. *And be it further enacted* by the authority aforesaid, That if it shall happen that any of the persons at any time chosen into any of the said offices, shall die, or, on any account, be removed from such office, at any time between the said yearly days of election, that, in such case, it shall be lawful for the surviving and continuing president, or any one of the vice-presidents, to issue summons to the several members of the body corporate, to meet at the usual place of the annual meeting of the said commissioners, at such time as shall be specified in the said summons, and such members as shall meet upon such summons, or the major part of them, shall and may choose an officer or officers in the room or place of such person or persons, so dead or removed, as to them shall seem meet.

The same of
commissioners.

V. *And be it further enacted* by the authority aforesaid, That in case of the death or removal from this Province of any of the said commissioners, that then it shall be lawful for the president, or any one of the vice-presidents, to issue summons to the several surviving commissioners to meet at the usual place of the annual meeting of the said commissioners, at such time as shall be specified in the said summons, and that such members as shall meet upon such summons, or the major part of them, shall or may choose a commissioner or commissioners in the room or place of such person or persons, so dead or removed, as to them shall seem meet.

In what cases
the acts of a
meeting to be
valid.

VI. *And be it further enacted* by the authority aforesaid, That it shall and may be lawful for the said commissioners and their successors to meet at some convenient place to be appointed for that purpose, on the second Tuesday in February and July, and oftener if occasion requires, upon publick summons given five days before, then and there to transact the business of the said commissioners, and to put in force and execute the several powers given them by this Act; and no act done in any assembly of the said commissioners shall be effectual and valid, unless the president or some one of the vice-presidents and eight members of the said commissioners, at least, be present, and the major part consenting thereunto.

Gifts and
legacies.

VII. *And be it further enacted* by the authority aforesaid, That all gifts or legacies formerly given, for the use of a free school for this Province, by any person or persons whatsoever, are hereby appropriated for the use of the school intended to be founded and erected, pursuant to the several powers granted to the said commissioners by this Act; and the said commissioners and their lawful successors are hereby authorized and empowered to demand and sue for the same, either by action of debt, suit, bill, plaint or information, in any court of record in this Province, wherein no essoign, protection, privilege, injunction, or wager of law, or stay of prosecution by *non vult ulterius prosecui*, or otherwise, shall be admitted or allowed.

Suits at law.

VIII. *And be it further enacted* by the authority aforesaid, That if any action, claim, suit or information shall be commenced or prosecuted against any person or persons, for what he or they shall do in pursuance or execution of this Act, such person or persons so sued may plead the general issue not guilty, and upon issue joined, give this Act and the special matter in evidence; and if the plaintiff or prosecutor shall become non-suit, or suffer discontinuance, or if a verdict pass against him, the defendant or defendants shall recover his or their treble costs, for which he or they shall have the like remedy as in any case by law is given to the defendants. And a receipt signed by such person or persons as shall be lawfully chosen and appointed treasurer to the said commissioners, shall be a sufficient discharge to such executor or executors as shall pay such legacies. And the moneys so received by such treasurer, shall be disposed of, by order of

the said commissioners and their successors, towards the purchasing of lands, and the erecting of a school house and dwelling houses, for the use of the several masters and professors. A. D. 1710.

IX. *And be it further enacted* by the authority aforesaid, That the said commissioners and their successors shall have power, and they are hereby authorized and impowered, to take up by grant from the Lords Proprietors, or purchase, have, take and receive, from any other person or persons whatsoever, so much land as they shall think necessary for the use and conveniency of the several masters and teachers; and shall also direct the building a school house upon the same, and such dwelling houses and convenient out-houses and buildings for the accommodation of the several masters or teachers; and shall also nominate and appoint one or more persons to be supervisor or supervisors for the said buildings. The said several buildings to be on such places on the said land, so taken up or purchased or received as aforesaid, and of such dimensions and of such materials, as the said commissioners shall order and direct. Grants by the Proprietors.

X. *And be it further enacted* by the authority aforesaid, That the said commissioners and their successors shall have full power and lawful authority to nominate and appoint a fit person to be master of the said school, by the name and stile of Præceptor and Teacher of Grammar and other the arts and sciences to be taught in the School for the Province of South Carolina; and so, from time to time, when and as often as the said place of master of the said school, by death, resignation, deprivation, or other wise, shall become void, shall nominate and appoint a fit person to succeed to be master of the said school. Appointment of masters and teachers.

XI. *And be it further enacted* by the authority aforesaid, That the person to be master of the said school, shall be of the religion of the Church of England, and conform to the same, and shall be capable to teach the learned languages, that is to say, the Latine and Greek tongues, and also the useful parts of the mathematicks.

XII. *And be it further enacted* by the authority aforesaid, That these commissioners and their successors shall have power and authority, under their common seal, to set down and prescribe such orders, rules, statutes, and ordinances, for the order, rule and good government of the said school, and of the masters, teachers, ushers and scholars thereof, as to them and their successors shall seem meet and convenient; and that the same orders, rules, statutes and ordinances, so by them made and set down, shall be and stand in full force and strength in law, so always that the same be reasonable, and not repugnant nor contrary to the established laws of this Province. And the said commissioners for the time being shall have full power and authority to visit the said school, and to order, reform, and redress all disorders and abuses in and touching the government of the same; and further, to censure, suspend and deprive any of the masters, teachers or professors of the said school, or the usher or ushers thereof, for the time being, as to them shall seem just, fit and convenient. Power to prescribe rules and regulations.

XIII. *And be it further enacted* by the authority aforesaid, That the said master or teacher of the said school shall have, hold, occupy, possess and enjoy, to him and his lawful successors, all such land as shall, pursuant to this Act, be taken up, purchased, had or received for the use of the master of the said school, and the school house, and dwelling house, and the out houses, and other buildings upon the same. Masters and teachers to hold and enjoy all lands given or granted.

XIV. *And be it further enacted* by the authority aforesaid, That in case the commissioners shall think it necessary that there be an usher appointed for the said school, that then the usher of the said school shall be chosen

A.D. 1719.

by the master, but approved of by the said commissioners and their successors.

XV. And because it is necessary that a fit person to teach the youth of this Province to write, and also the principles of vulgar arithmetick and merchant's accompts, *Be it further enacted* by the authority aforesaid, That a fitting person shall be nominated and appointed by the said commissioners, to teach writing, arithmetick, and merchant's accounts.

*Read three times, and ratified in open Assembly,
this eighth day of April, Anno Dom. 1710.*

EDW. TYNTE,
F. TURBERVILLE,
ROBERT GIBBES,
ROBERT DANIELL,
THO. BROUGHTON.

Repealed by the Free School Act, of Dec. 12, 1712.

No. 291. AN ACT TO PREVENT ABUSES BY FALSE WEIGHTS AND MEASURES, AND TO APPOINT A SWORN MEASURER, WITH A CLAUSE TO PREVENT THE SCARCITY OF SALT.

Preamble.

WHEREAS the making and using of false weights and measures, greatly tend to the oppressing of the poor and deceiving of all others; for the prevention whereof,

Edward Hakes
appointed
measurer.

I. *Be it enacted* by his Excellency the Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, That for the better discovering of all deceits in weights and measures, and other abuses contrary to the intent of this Act, that Edward Hakes (being duely sworn truly and faithfully to discharge the said trust) be and is hereby appointed to survey, seal or mark all weights and measures, within this part of this Province, and that he have power and is hereby empowered and obliged to search, examine, try and mark all weights and measures, in Charlestown, at the respective house of the owners, some time within twenty days after the ratification of this Act, and shall examine, try and search all weights and measures, as often as he shall have reason to suspect any person or persons keeps or makes use of false weights and measures; and all persons not inhabiting in Charlestown, shall within two months after the ratification of this Act, (or before they buy or sell with the same,) bring their weights and measures to the dwelling house in Charlestown of the said Edward Hakes, to be tryed and marked, and so many as are good, this mark *** thereupon to put; and all that are found defective and not good, after the times above mentioned, to burn, break, or cut in pieces; and that all and every person and persons shall pay for marking every measure great or small, half a royal, and for every set of troy weights from a grain to an ounce inclusive three royals, and for every set of troy weights from one ounce to a pound, one royal, and for every averdupoise, two pence. And that a true standard, agreeable to the standard in England, both of troy and averdupoise weights and of all measures, may not be wanting in this part of this Province, the

His fees.

said Edward Hakes is hereby required to provide and procure the same, and in his possession to keep, that all differences or disputes which shall or may happen to arise concerning the same, may be speedily determined, and the deceipts thereof timely prevented.

A. D. 1710.

II. *And be it enacted*, That if any person or persons shall happen to keep and use double weights and measures, viz. one to sell withal and another to buy with, or which shall keep and use other weights and measures than such as are marked, or that shall after they are marked any way alter the same, or use any stillards in Charlestown, shall forfeit for every time he or they are convicted thereof, ten pounds, to be recovered by bill, plaint or information in any court of this Province, one moiety thereof to be paid into the hands of the publick Receiver for the use of the country, and the other moiety to him or them that will sue for the same, and for want of effects to levy the same upon, shall suffer three months imprisonment, without bail or mainprise.

Penalty for using false weights.

III. *And be it further enacted*, That no person or persons whatsoever do presume to counterfeit or set the mark before appointed upon any weights and measures whatsoever, upon pain of the forfeiture of five pounds for every such offence, to be recovered and disposed of as in the clause last before mentioned is provided.

Counterfeiting the mark.

IV. And for the speedy deciding of differences and disputes that shall or may arise concerning the equal and exact measuring and gaging of board, plank, timber, casks or any other thing whatsoever, *It is hereby enacted*, That Edward Hakes, being first duly sworn, be and is hereby appointed publick measurer and gauger of this part of this Province, and empowered to determine all such differences and disputes, which shall happen concerning the same, and that he receive and have three pence the hundred, for measuring boards and all flatt measure, and three pence the tun for all timber, and so proportionably for a greater or lesser quantity, and half a royal per cask for liquid things. And upon default or neglect of said Edward Hakes in the due and just execution of the said places, that then the Right Honourable the Governour for the time being is desired and hereby empowered to remove and displace the said Edward Hakes, and to nominate and appoint any other person in his stead that he shall think fit to perform the said trust and place.

Publick Gauger and measurer appointed.

V. *And it is further enacted*, That if the said Edward Hakes shall either wilfully or fraudulently abuse, neglect, deny or refuse to perform all and every thing required and appointed by this Act, shall forfeit for each and every default the sum of forty shillings, to be recovered by a warrant, under the hand of any one or more Justices of the Peace, in like manner and form as in an Act entituled an Act for the Tryal of Small and Mean Causes, is ordained and appointed.

Penalty for neglect.

VI. And to prevent the scarcity of Salt, *Be it enacted* by the authority aforesaid, that any person whatsoever that shall directly or indirectly ship to be exported any quantity of salt, when the same is commonly sold at five royals or more per bushel, shall forfeit for every bushel so shipped to be exported, the sum of twenty shillings; to be recovered by bill, plaint, or information in the court of pleas, one half thereof to the informer or prosecutor, and the other moiety for the publick use.

Salt not to be exported when five royals per bushel.

Read three times, and ratified in open Assembly, April 8, 1710.

EDWARD TYNTE,
F. TURBERVILLE,
THO. BROUGHTON,

ROBERT GIBBES,
ROBERT DANIELL.

See Act of February 3, 1701-2, on the same subject.

A. D. 1710.

No. 292. AN ACT FOR APPOINTING A PUBLICK VENDUE-MASTER, FOR THE SELLING SUCH GOODS AND MERCHANDIZES AS SHALL BE EXPOSED TO SALE BY PUBLICK OUT-CRY.

Preamble.

WHEREAS, by reason of the frequent sale of goods and merchandizes, negroes and other effects, as well imported into this Province, as brought from divers parts thereof to the publick market in Charlestown, there is an absolute necessity of constituting and appointing a known, fit, and proper officer for the exposing and putting up to sale all such negroes, goods and effects, as well to prevent any fraudulent sale thereof, as to alter the property of such goods when publickly sold, and to vest the same in the buyer;

All goods to be sold at vendue, to be delivered to the master.

I. *Be it therefore enacted* by his Excellency William Lord Craven, Palatine, and the rest of the true and absolute Lords and Proprietors of the Province of Carolina, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south west part of this Province, and by the authority of the same, That from and immediately after the ratification of this Act, all and singular the goods and merchandizes, negroes and effects whatsoever, which shall be brought into the Province, or to the common market at Charlestown, and which person or persons, merchants or others, have a mind should be put up and exposed to sale at publick out-cry, shall first be viewed and seen by the person herein after appointed publick vendue master, or his deputy, and put into his hands and possession at some most publick place in Charlestown, and there publickly and openly exposed and put up to sale; and all or any of such goods and merchandizes, negroes and effects whatsoever, for the which the highest prices shall be offered at such out-cry by any person or persons, shall be delivered to such highest bidder, or to his order, upon payment of the money so offered.

Vendue-master to declare the terms of sale.

II. *And be it further enacted* by the authority aforesaid, That before any such sale or exposing to sale shall be made as aforesaid, the said vendue master shall publickly and in the audience of such persons who have a mind to bid for any goods or things whatsoever, read, publish and declare the term and conditions of such sale, as, when the goods shall be taken away and the money paid, and all other matters and things as in such cases are usual. And where there may happen to arise any difference or dispute who was the first or highest bidder, he the said vendue master shall by himself or deputy immediately, at the place of sale, determine and adjudge the goods to the person he shall deem to bid first and the highest price for such goods.

And give publick notice of all sales

III. *And be it further enacted* by the authority aforesaid, That at least four days before any sale is to be made by him the said vendue master at publick out-cry, he shall fix and put up at the most noted and the usual places in Charlestown, several notes and papers, thereby to certify that on such a day such goods and merchandizes or other things, naming the sorts, parcels and quantities, are to be sold and put up to sale at such a place in Charlestown, and that in the mean time any person or persons may repair to the place where the same remain, in order to view and see the same; and on the day of sale, and immediately before such sale begins, the said vendue master shall cause publick notice to be given by ringing of an hand bell through the most usual and frequented streets in Charlestown.

IV. *And be it further enacted* by the authority aforesaid, That when any person or persons who are inhabitants of this Province, shall bring any goods or effects to Charlestown to be sold by the said vendue-master, he, she or they shall be first bound, with one good and sufficient security, in double the value of such goods, that the same were honestly come by, and that no other person hath any property of, or any demand for the said goods. A. D. 1710.
Security to be given to the Vendue Master.

V. *And be it further enacted* by the authority aforesaid, That the said vendue master shall be obliged, and he is hereby obliged and required to keep a book fair written, wherein shall be written and entered all goods and merchandizes by him sold and disposed of at publick out-cry, to whom and at what prices the same were sold, that so any person or persons may repair to the same and take copies thereof if they think fit; and the said vendue master is hereby obliged to give and make certificates of any parcel of goods by him sold and disposed of, to any person requiring the same, they paying fifteen pence for each certificate. Who is obliged to keep account of all goods sold

VI. *And be it further enacted* by the authority aforesaid, That the person herein after named and appointed publick vendue master, shall, before he take upon him the said office, enter into bond unto the Governour, or the Governour for the time being, in the sum of five hundred pounds, with one or more security, with condition for his well and faithful execution of the said office and performance of the said trust of publick vendue master, and to perform all such matters and things in such manner and form as is required of him by this Act. And enter into bond to the Governor.

VII. *And be it further enacted* by the authority aforesaid, That the vendue master hereafter appointed by this Act, shall and lawfully may have, sue for, require, receive and take of any persons for whom he shall sell and dispose of any goods or merchandizes at a publick out-cry as aforesaid, the sum of one shilling in the pound, provided it be not above one hundred pounds belonging to any one person, and six pence for any sum above an hundred, for all such goods and merchandizes so by him sold and disposed of, and for collecting and paying the money by him received, to the person or persons whose goods the same were. And that all and every sale or sales, by the said vendue master made in manner aforesaid, shall be good, valid and substantial in the law, to vest the property of every the goods in the buyer, any law, custom or usage to the contrary hereof in any wise notwithstanding. His allowances for public sales.

VIII. *And be it further enacted* by the authority aforesaid, That the Right Honourable the Governour, or the Governour for the time being, is hereby requested and impowered to nominate and appoint the said vendue master, and the person so nominated and appointed shall be deemed sole vendue master, to execute all such matters as are enjoined him, and be subject to all the penalties, limitations and restrictions as in and by this Act are made and provided. Appointed by the Governor.

*Read three times, and ratified in open Assembly,
the eighth day of April, Anno Dom. 1710.*

EDWARD TYNTE,
F. TURBERVILLE,
ROBERT GIBBES,
ROBERT DANIELL,
THO. BROUGHTON.

A.D. 1719.

No. 293.

AN ACT FOR REVIVING AND CONTINUING SEVERAL ACTS THEREIN MENTIONED, WHICH ARE EXPIRED OR NEAR EXPIRING.

WHEREAS, divers temporary laws, which by experience have been found useful and beneficial, and some of them already expired, and others near expireing; therefore, for the reviving and continuing the same,

I. *Be it enacted* by His Excellency William Lord Craven, Pallatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the Generall Assembly, now met at Charlestown, for the south-west part of this Province, and by the authority of the same, That whereas an Act of Assembly of this Province, entituled an Act for the better ordering of Slaves, ratified in open Assembly the 28th day of August, 1701, which was to have continuance and be of force for seven years from and after the ratification thereof and no longer, is expired: and an Act entituled an Act for taking up and killing wild, unmarked and outlying Cattle, ratified in open Assembly, the 17th day of September, 1703, which was to have continuance and be in force two years and no longer, which said Act being expired, by an Act of Assembly entituled an Act to revive the several Acts within mentioned, &c., ratified in open Assembly the 9th of April, 1706, was revived and enacted to have continuance for six months from and after the ratification thereof, and from thence to the end of the next sessions of the General Assembly after, and no longer, which said Act is again expired; and an Act entituled an Act to prevent the sale of Leather not sufficiently tanned, and the regulating the prices of Shoes, ratified in open Assembly the 17th day of September, 1703, which was to have continuance and be in force for two years, and no longer, is expired; and an Act entituled an Act for the Settling of Pilotage, ratified in open Assembly the 12th day of July, 1707, which was to have continuance and be in force for two years, and no longer, is expired; and an Act entituled an Act for the better settling and regulating the Militia, ratified in open Assembly the 19th day of July, 1707, which was to have continuance and be in force for two years, and from thence to the end of the next sessions of the General Assembly, and no longer, is expired: that all and every the above mentioned Acts, and every clause, article and thing therein contained, shall be revived, and are hereby revived, and shall continue in force for the space of one year from and after the ratification of this Act, and from thence to the end of the next sessions of the General Assembly, and no longer.

II. *And be it further enacted* by the authority aforesaid, That an Act entituled an Act for enlisting such trusty Slaves as shall be thought serviceable to this Province in the time of alarms, ratified in open Assembly the 4th day of April, 1708, which Act (excepting the last paragraph) was to have continuance and be in force for two years, and from thence to the next sessions of the General Assembly, and no longer, shall be continued, and is hereby continued, and shall be in force from and after the ratification of this Act one year, and from thence to the end of the next sessions of General Assembly, and no longer.

Read three times, and ratified in open Assembly, April 8, 1710.

EDWARD TYNTE,
F. TURBERVILLE,
ROBERT GIBBES,

THO. BROUGHTON,
ROBERT DANIELL.

NOTE.—Besides the Act relating to Slaves, and the Act relating to untanned Leather, the following Acts are all continued for one year, No. 267, 270, 278.

A. D. 1710.

No. 294.

AN ACT to appoint and erect a Market in Charlestown for the Publick Sale of Provisions, and against Regrators, Forestallers and Ingrossers.

(Ratified April 8, 1710, for two years. After several continuances, continued by Act for reviving and continuing, &c., of April 28, 1721, for three months. *See last volume.*)

AN ACT FOR SETTLING A SALARY ON THE PUBLICK RECEIVER.

No. 295.


WHEREAS, the Act wherein the publick Receiver for the time being was allowed an annual salary, is expired ;

I. *Be it therefore enacted* by his Excellency William Lord Craven, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown, for the South-west part of this Province, and by the authority of the same, That the person nominated by a vote of the House of Commons pursuant to an Act entitled an Act declaring the right of the House of Commons for the time being, to nominate the publick Receiver, &c., ratified the fifth day of July, Anno Dom. 1707, for his pains, care and trouble in executing and performing the office of publick Receiver, shall yearly and every year, to commence from the ratification of this Act, be allowed and paid out of the publick Treasury the sum of one hundred and fifty pounds, currant money, to be paid at the end of every three months in the year, by even and equal payments, in lieu of all commissions, dues and perquisites whatsoever, arising from the said office. And the person so appointed shall be receiver of all dues, duties, taxes, impositions, penalties and forfeitures arising or growing due by virtue of any Act now or hereafter to be in force, and his publick accounts fairly shall keep, and render the same to the Commons House of Assembly when and as often as he shall be thereunto required.

II. *And be it also enacted* by the authority aforesaid, That the said Receiver, before he shall execute any part of his office, shall and do first take his corporal oath before any Justice of the Peace, to execute his office of Receiver duly and honestly; and if he shall neglect to take the said oath, he shall forfeit to the publick the sum of fifty pounds, to be recovered against him by action of debt in any Court of Record within this Province.

III. And the said Receiver, for the better security of the publick revenue, shall with two good and sufficient securities, within six days after the ratification hereof, enter into bond to three of the members of the House of Commons, or any two of them, whereof the speaker shall be one, who are hereby empowered to take the same bond of the said Receiver for the use of the publick, in the penal sum of five thousand pounds, which bond shall be and remaine in the Secretary's office of this Province, under the condition hereafter expressed.

The condition of this obligation is such, that if the above bound A. B. Receiver, his executors or administrators, shall well and truly account for (as often as he shall be thereunto required by the Commons House of Assembly, or a committee by that House appointed) all and every such sume and sums of money which by any Act of Assembly now or hereafter to be in force, shall come to his hands, and shall also pay all sums of mo-

A. D. 1710.  ney, according to the intent and meaning, and to the uses mentioned and directed in the said Acts and every of them, then this obligation to be void, else to be and remaine in full force and virtue.

IV. *Provided*, nevertheless, and it is further enacted by the authority aforesaid, That the person appointed Receiver by vote of the House of Commons, as before in this Act is expressed, shall not continue in the said office any longer at one time than the space of three years next after his admission, and from thence to the next sessions of the General Assembly; any thing in this or any other Act now in force to the contrary notwithstanding.

*Read three times and ratified in open Assembly,
this first day of March, 1710.*

ROBERT GIBBES,
THO. SMITH,
ROBERT DANIELL,
THO. DISTON,
SAM. EVELEIGH,
STEPHEN GIBBES.

No. 296. AN ACT for the Erecting of a New Brick Church at Charlestown, to be the Parish Church of St. Philip's, Charlestown.

(Ratified March 1, 1710-11. Copied from Trott, p. 177. The original Act not now to be found. *See last volume.*)

No. 297. AN ACT FOR RAISING THE SUME OF THREE THOUSAND POUNDS IN SMALL BILLS, FOR THE SINKING ONE THOUSAND POUNDS OF THE FORMER BILLS, AND TWO THOUSAND POUNDS FOR AND TOWARDS THE PAYMENT OF THE DEBTS DUE FROM THE PUBLICK, AND TO APPOINT A FUND FOR THE SAME.

Preamble. WHEREAS, it highly concerns us, the representatives of the people of this Province, to keep up the publick faith and credit, and knowing it to be our duty, in honour and justice, to satisfy the publick debts; in order therefore to pay the greatest part of the said debts, and also to prevent the inconveniences which hath happened through the want of smaller bills of credit,

I. *Be it enacted* by his Excellency, William Lord Craven, Palatine, and the rest of the true and absolute Lords and Proprietors of the Province of Carolina, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the southwest part of this Province, and by the authority of the same, That immediately from and after the ratification of this Act it shall and may be lawful to and for the Hon. Colonel Thomas Broughton, the Hon. Colonel Robert Daniell, Esq., sen., Samuel Eveleigh, Esq., Henry Le Noble, Esq., Richard Beresford, Esq., Mr. William Gibbon, Colonel George Logan and Colonel Alexander Parris, or any five of them, Commissioners thereunto appointed, who are hereby required to undertake and perform the same, to make, or cause to be made, a certain number of bills of credit, to the

value of three thousand pounds, that is to say, two thousand bills of ten shillings each, and eight thousand bills of five shillings each, which said bills shall be delivered to Richard Beresford, Esq., publick Receiver, or the Receiver for the time being, and by him be given in payment unto such person or persons to whom the publick is indebted. A. D. 1710.
Value of bills to be issued.

II. And to prevent the counterfeiting the said bills by ill-disposed persons, *Be it enacted* by the authority aforesaid, That if any person or persons shall counterfeit any of the said bills, or knowing any of them to be false or counterfeit, shall utter the same in payment, then and in such case the counterfeiter, or any one aiding or assisting him or them in disposing of the said bill or bills, being thereof duly convicted, shall be punished as guilty of felony, without benefit of the clergy. Penalty on counterfeiting.

III. And the better to prevent the counterfeiting of the said bills, *Be it enacted* by the authority aforesaid, That all the bills of credit to be made, appointed and established by this Act, shall be indented, and a counterpart of the indenture kept fairly bound in a book by the commissioner aforesaid; and also the bills shall each of them be numbered, and the counterpart of the indenture shall have the same number as the bill, that if any person do suspect or question any of the said bills to be faulty and counterfeited, they may compare them with the counterpart of the indenture; and the commissioners aforesaid are hereby ordered and required to have the said book always in Charlestown, ready to be produced to all persons requiring the same to compare his or their bill or bills, without any fee or reward; and besides the said indenture and number on the said bills and counterparts, the said bills and every of them shall be signed by the commissioners aforesaid, or any five of them, and a seal with this stamp to every bill, and all means used to make the same secure from counterfeiting before any of them are issued out in payment. Bills to be indented and numbered.
The book of entry to be kept in Charlestown.

IV. *And be it enacted* by the authority aforesaid, That the commissioners herein before mentioned and nominated, and every of them, shall be under the same oaths, directions, limitations, fines and penalties, as the commissioners were under, in and by an Act entituled an Act for Raising the Sume of Eight Thousand Pounds, &c., ratified in open Assembly the fifth day of July, 1707. Commissioners to be under oath, &c.

V. *And be it further enacted* by the authority aforesaid, That the said commissioners, or the majority of them, are hereby impowered and authorized to draw upon the publick Receiver for such sum and sums of money as the charges of stamping and finishing the said bills shall amount to, who is hereby impowered and required to pay the same. Charges of issuing the bills to be paid by the Publick Receiver.

VI. *And be it further enacted* by the authority aforesaid, That the Receiver for the time being shall receive and take, and he is hereby obliged and required to receive and take any of the said new bills in payment of any dues, duties, impositions or taxes coming to the publick.

VII. *And be it further enacted* by the authority aforesaid, That all and every the bills of credit made and established by this Act, shall be current for the sum or sums of money therein mentioned, and shall be taken after the ratification of this Act, to be a good payment and tender in law, and may so be pleaded in any Court in this Province, or before any Justice of the Peace, for any sum under forty shillings; and any person who shall refuse to take and receive the same in payment, he, she or they so refusing shall forfeit double the value of that bill or bills so refused, one half to such person or persons who will sue for the same, by bill, plaint or information in any Court of Record within this Province, wherein no essoign, protection or wager of law shall be allowed; the other half to the vestry of Charlestown, for the use of the poor. The bills of credit to pass in payments.

A. D. 1710.

To have equal
currency with
former bills.

VIII. *And it is further enacted* by the authority aforesaid, That for and towards the securing the payment of the aforesaid bills of credit for three thousand pounds, and that they may have equal currency and fund with the former bills, and for the strengthening the same, *Be it enacted* by the authority aforesaid, that the Receiver for the time being, as soon as may be after his receiving the aforesaid three thousand pounds of bills of credit, shall call in, cancel and put on a file one thousand pounds of the former bills of credit; and the fund of the said bills so called in and cancelled is hereby ordered and declared to be disposed of for and towards the sinking one thousand pounds of the bills hereby established and ordered to be given in exchange for the same, and on no other account whatsoever; and that the remaining two thousand pounds may have the like fund and currency;

Taxes imposed
by former Acts
to be continued
for two years.

IX. *Be it therefore enacted* by the authority aforesaid, That the impositions laid on several goods imported into or exported out of this Province, by virtue of an Act intituled an Act to make and establish Bills of Credit for raising the Sum of Eight Thousand Pounds, and ratified in open Assembly the fifth day of July, one thousand seven hundred and seven; and an Act to continue the Impositions on Liquors, &c., and for a Fund and security for the payment of the Sum of Eight Thousand Pounds for sinking the Bills of Credit, and ratified in open Assembly the twelfth day of July, one thousand seven hundred and seven; and an Act intituled an Act for raising the Sum of Five Thousand Pounds, ratified in open Assembly the twenty-fourth day of April, one thousand seven hundred and nine—be and are hereby enacted to continue as therein specified, and further for the term of two years longer than is expressed in the said recited Acts, that is to say, unto the twelfth day of July, one thousand seven hundred and sixteen, and from thence to the end of the next sessions of the General Assembly, and no longer, any thing contained in the said Acts notwithstanding.

*Read three times, and ratified, in open Assembly,
this first day of March, 1710.*

ROBERT GIBBES,
THO. SMITH,
ROBERT DANIELL,
THO. DISTON,
SAM. EVELEIGH,
STEPHEN GIBBES.

NOTE.—See the Repeal by the British Council of Act June 30, 1716, dated July 22, 1718, post.

No. 298. **AN ACT FOR REDUCEING THE WATCHES AND LOOK OUTS PLACED AND APPOINTED ON THE SEA COAST OF THIS PROVINCE TO A LESSER NUMBER, AND REGULATEING AND PROVIDING CONVENIENT NECESSARIES AND ALLOWANCES FOR THE SAME, AND ALSO ENCOURAGING THE TAKING UP SERVANTS AND SLAVES.**

Preamble.

WHEREAS, the publick for several years past has been at very great charge and expence to provide for and maintain great numbers of white men and Indians as watchmen and look-outs upon the sea coast of this Pro-

vince, and it being found and observed by experience that a much lesser number of careful and diligent watchmen, conveniently and fitly placed, will be sufficient to attend the sea coast, and answer the end of such watches; Therefore, to prevent the continuance of so great and unnecessary a charge on the publick for the time to come, and to make necessary provision and allowance for such watchmen and look-outs only, as by this Act are hereafter appointed,

A. D. 1710.

I. *Be it enacted* by his Excellency William Lord Craven, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, with the advice and consent of the members of the Generall Assembly, now met at Charlestown for the south-west part of this Province, and by the authority of the same, That the persons hereafter named shall settle watches of such number of people, in such places and so appointed, as hereafter by this Act is provided. That Captain John Cochran shall and is hereby required to appoint a watch to be kept at Port Royall, consisting of two white men and two Cursaboy Indians: that Captain John Whitmarsh shall and is hereby required and impowered to appoint a watch to be kept at Edisto Island, consisting of one white man and two Edisto Indians: that captain Jonathan Drake shall and is hereby required and impowered to appoint a watch to be kept on Folly Island, consisting of one white man and one hired Indian: that Captain William Capers shall and is hereby required and impowered to appoint a watch to be kept on Bull's Island, consisting of one white man and two Seawee Indians.

Persons appointed to settle watches.

II. *And be it further enacted* by the authority aforesaid, That the watchmen hired by the several persons aforesaid, to serve as watchmen in the respective places before mentioned in this Act, shall be allowed any sum not exceeding twenty pounds per annum, out of the publick treasury, and the publick Receiver is hereby impowered to pay such sums out of the publick treasury to such watchmen or their assignes, upon such watchman his produceing an order, under the hand of such person appointed by this Act to settle watches.

Allowance to the watch-men.

III. *And be it enacted* by the authority aforesaid, That a sum of money not exceeding three pounds, shall be yearly paid out of the publick treasury, when demanded, as a salary for each of the Indians employed on the said watches. And the publick Receiver is hereby impowered to pay the same to each of the persons above named, or their order, all which yearly payments as aforesaid, both for white men and Indians, shall commence three months next after the ratification of this Act.

IV. *And be it further enacted* by the authority aforesaid, That the several persons before mentioned shall settle the watches committed to their respective charges so soon as possible.

The watch to be set without delay.

V. *And be it further enacted* by the authority aforesaid, That the Governour for the time being is hereby impowered and required to give such instructions to the several persons before mentioned to settle the watches, or to others who shall be appointed hereafter in their places, as he shall think proper.

The Governor may give instructions.

VI. *And be it further enacted* by the authority aforesaid, That if any of the persons before mentioned shall dye, depart this Province, or refuse to Act in appointing and taking care of the watches, as they are hereby impowered, that the Governour for the time being shall nominate others in their stead, who shall have all the powers given to these persons above named.

He may fill up vacancies.

VII. *And be it further enacted* by the authority aforesaid, That all persons employed as watchmen by the persons above named, shall observe such instructions as they shall receive from time to time from those who

Watch-men to obey the instructions given to them.

A. D. 1710.

hired and employed them, pursuant to such instructions as they, the said employers, shall have from the Governour for the time being; and for their neglect of any part of their duty, they shall be liable to such defalcations of their respective wages as their respective employer, with the advice and consent of any two freeholders, whereof one to be a Justice of the Peace, shall think a proper punishment for such neglect.

Distribution of powder and ball.

VIII. *Be it further enacted* by the authority aforesaid, That the powder receiver for the time being shall deliver annually to Captain John Cochran, for the use of the watch on Port Royall, twenty pounds of powder, and fifty pound weight of bullets; and to each of the persons before mentioned, who are appointed to settle look-outs, ten pounds of powder and twenty five pounds of bullets for each look-out under their respective charges; and that the said annual allowance of powder do commence three months next after the ratification of this Act; and for which stores the said persons shall render a just account to the publick at the end of every year.

Indian watch-men may be punished for disobedience.

IX. *And be it further enacted* by the authority aforesaid, That if any Indians that are appointed by their casiques to serve on any of the watches aforesaid, shall run away before any releife come to them, or commit any other fault contrary to their duty, which justly deserves punishment, that each of the several persons above named, (who shall have such faults committed on any of their respective watches,) shall have power, and are hereby required by and with the advice and consent of two freeholders as aforesaid, and the respective casique of that nation, to order such moderate punishment to be inflicted on such offender, as in their judgment shall seem meet.

Runaway slaves to be taken up.

X. *And whereas*, there is yet no sufficient encouragement given by any former law of this Province for taking up and securing slaves endeavouring to desert this Government; *Be it therefore enacted* by the authority aforesaid, that any watchman or other person whatsoever, who shall take up any slave or slaves in a boat, canoe or any other vessel on the sea coast, or in any river within two mile of the sea, without a lawful ticket, and shall bring the said runaways to his or their proper owner or overseer, shall receive for reward two pounds for each slave, and six pence per mile for every mile, not exceeding twenty shillings, for mileage. But if the persons taking up such slaves know not the owners or overseers, or that the owners or overseers shall refuse to pay the said sum and mileage to them, that then and in either case, they shall carry such slave or slaves to the marshall's house in Charlestown, on forfeiture of ten pounds, to be paid to the owner or overseers, for every day they shall keep such slave or slaves exceeding four days; and the said marshall is hereby required to pay such person or persons, as in this Act is directed, and to keep such slave or slaves in custody, and to detain them till their owners or overseers shall repay him, together with one royal per day for each slave's being at his house; always provided, the said marshall give publick intimation by posting the same up in Charlestown.

Certain Acts repealed.

XI. *And be it further enacted* by the authority aforesaid, That one Act entituled an Act for the appointing Look-outs and providing necessaries for the same, ratified in open Assembly the fifth day of July, one thousand seven hundred and seven, and one other Act entituled an additional Act to an Act entituled an Act for appointing Look-outs and providing necessaries for the same, be, and they are hereby declared repealed, annulled and made void, any limitation or thing in the said Acts to the contrary in any wise notwithstanding.

XII. *And be it further enacted* by the authority aforesaid, That this Act and every thing therein contained do continue in force two years from and

after the ratification hereof, and from thence to the end of the next general sessions of Assembly after, and no longer. A. D. 1710.

*Read three times and ratified in open Assembly,
this first day of March, Anno Dom. 1710.*

ROBERT GIBBES,
THO. SMITH,
ROBERT DANIELL,
THO. DISTON,
SAM. EVELEIGH,
STEPHEN GIBBES.

Expired.

AN ACT TO OBLIGE THOSE TRADERS THAT COME FROM VIRGINIA AND OTHER NEIGHBOURING COLONIES TO TRADE WITH THE INDIANS OR WHITE PERSONS LIVING WITHIN THIS PROVINCE AND GOVERNMENT, TO COME FIRST TO CHARLESTOWN AND TAKE OUT LICENSES TO TRADE, AND TO BE SUBJECT TO THE LIKE REGULATIONS, AND TO PAY THE SAME DUTIES OF IMPORT AND EXPORT WITH THE INHABITANTS OF THIS PROVINCE AND GOVERNMENT, WHO TRADE WITH THE INDIANS LIVING WITHIN THE BOUNDS OF THE SAME.

No. 299.

WHEREAS, several persons from Virginia and other Colonies have of late years come and traded with the Indians or white persons living within this Province and Government; and if such persons are suffered to come and trade with our Indians without taking their licenses from this Government, and so not subject to observe the same rules and orders with our own traders, they may without any restraint commit all those evil practices among the Indians which may be of most destructive consequence to this Province and Government, which are designed to be prevented by one Act of Assembly of this Province, entituled an Act for regulating the Indian Trade and making it safe and beneficial to the publick, and for preventing the abuses committed by the Indian Traders amongst the Indians, ratified in open Assembly the 19th day of July, Anno Dom. 1707; besides the disadvantage that our own traders and this Government will lie under if our Indian allies be removed by the traders from Virginia and the other Colonies, by which means we shall quite loose the trade and commerce, as well as the friendship and assistance of our Indians, in case our own traders should be obliged not only to pay annually for their licenses, but also to pay the duties, not only upon the goods and merchandizes imported into this Province, but also the duties upon the Skins, Furs and slaves received from the Indians and exported, and the other traders amongst the Indians should not be liable to the same duties; *Preamble.* *Whereas,* in order to keep trade upon a just and equitable balance and foundation, all persons that trade in the same place and trade ought to be under the same regulations, prohibitions and restrictions, and liable to equal impositions and duties for import and export, besides the necessity there is of keeping the Indian trade under regulation, in order to preserve the friendship and obedience of our Indians, that so in case any of the Indians should endeavour to withdraw their obedience from this Government, any acts of depredations or hostilities upon her Majestie's subjects, inhabitants of this Province, the same persons may be easily reduced to

A.D. 1711.

All persons
desirous of
trading with
Indians must
take out a
license.

And give
security.

Subject to
penalties and
forfeitures.

To be sued for
within twelve
months.

Goods
imported liable
to search.

obedience by stopping them from being supplied with goods for their necessary occasions, and especially from arms and ammunition, that so they may not be able to annoy us; which cannot be effected, except all persons that trade with the Indians are under the same regulations and restrictions.

I. *Be it enacted*, by his Excellency William Lord Craven, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the Generall Assembly, now met at Charlestown, for the south-west part of this Province, and by the authority of the same, That from and after the ratification of this Act all and every person and persons that shall come from Virginia, or any other of our neighbouring Colonies, to trade with the Indians, or others whatsoever, within the bounds of this Province, before he or they shall be suffered to trade amongst the Indians, he or they, or some other in behalfe of every such person or persons, shall be obliged to come to Charlestown and take their licenses from the commissioners, or any five of them, mentioned in the above named Act entituled an Act for regulating the Indian Trade and makeing it safe and beneficial to the publick, and for preventing the abuses committed by the Indian Traders, ratified in open Assembly the 19th day of July, Anno Dom. 1707, and to give the like security, as is directed by the above mentioned Act for regulating the Indian trade; and in case any such person or persons shall presume to trade without a license, as before prescribed, he or they shall be subject to the like penalties and forfeitures as any of the inhabitants of this Province are subject to by the above mentioned Act for trading with the Indians without a license, the same to be recovered and disposed of as the fines and forfeitures are directed to be recovered and disposed of by the above mentioned Act; and the goods and merchandizes by him or them so imported to be liable to be seized and forfeited, the one half to his Excellency the Palatine and the rest of the true and absolute Lords and Proprietors of this Province, to and for the support and maintenance of the Government of this Province and the contingent charges thereof, the same to be delivered and paid to the publick Receiver of this Province for the time being, to be disposed of by ordinance of the General Assembly of this Province, and the other half to him or them that will sue for the same, at any time within twelve months after the offence committed, by information in any Court of Record in this Province, wherein no essoign, protection, injunction or wager of law shall be admitted or allowed. And at the same time that such trader or traders inhabiting Virginia or other the neighbouring Colonies do take out their licenses, he or they shall give in an exact invoice upon oath of all their goods and merchandizes imported or otherwise brought into this Province, and shall produce cocketts and certificates from the officers of her Majestie's customs in Virginia, or such other Colony as they import them from, signifying that the same were lawfully imported into that Province they were last exported from; and shall also pay, or secure to be paid to the publick Receiver for the time being, all such duties as the inhabitants of this Province are by the laws of this Province liable to for any goods imported in this Province. And the goods and merchandizes so imported or brought in as aforesaid, shall be liable to a search, and in case any fraud or deceit in the entry thereof, the said goods shall be liable to a seizure, and be forfeited, the one half to him or them that will sue for the same in any Court of Record in this Province, and the other half to and for the support of the Government of this Province and the contingent charges thereof, and to be disposed of by ordinance of the General Assembly of this Province. But in case the

goods and merchandizes so imported shall not be all sold and disposed of, then such part as is undisposed of, the same person that exports the same shall be allowed his full drawback of the same. And for all skins, furs, slaves and all other commodities that such trader or traders, not inhabitants of this Province, shall receive from the said Indians, in order to be exported out of this Province, that every such trader or traders shall give account thereof, upon oath, to the agent, or to such person or persons as he shall appoint for that purpose, at the Savannah town, who is hereby authorized, empowered and appointed to appoint a person accordingly, and shall pay him or them all such duties as by the laws and acts of this Province the traders of this Province are liable to pay, upon the like penalties and forfeitures for not duly entering the said commodities and paying the duties thereof, as the inhabitants of this Province by the laws and acts of this Province are liable to in case of exporting the said commodities and not paying the duties thereof; the same penalties and forfeitures to be recovered and disposed of as by the same laws and acts of this Province is ordered for the inhabitants thereof.

A. D. 1711.

Traders to give
an account on
oath of articles
received from
the Indians.

*Read three times and ratified in open Assembly,
the 28th day of June, 1711.*

ROBERT GIBBES,
JOHN GIBBES,
CHARLES BURNHAM,
SAM. EVELEIGH,
STEPHEN GIBBES.

NOTE.—Repealed by Act of June 30, 1716.

AN ACT TO MAKE JOHN WRIGHT, GENTLEMAN, PRESENT AGENT, ACCORDING TO AN ACT OF ASSEMBLY ENTITULED *An Act for the Better Regulating the Indian Trade, &c.*, SUBJECT AND LIABLE TO THE PENALTY OF A CERTAIN BOND BY HIM ENTERED INTO FOR THE DUE EXECUTION OF HIS TRUST AND OFFICE, FOR ANY BREACH OF THE SAME BY HIM COMMITTED, NOTWITHSTANDING THE SAID BOND BE NOT TO BE FOUND.

No. 300.

WHEREAS, John Wright, some time since, did undertake and become the countrie's agent, pursuant to an Act of Assembly for that purpose appointed, entituled an Act for the better regulateing the Indian Trade, &c., and upon his entering into and upon his said office did become bound, with one or more sureties, unto Richard Beresford, Esq., Publick Receiver, for the true execution of his trust and office, as the said Act directs; and forasmuch, as either through carelessness or design, the said recited bond is mislaid and not to be found, whereby the said John Wright, if he hath heretofore made a breach of the condition of the obligation he entered into as aforesaid, and done or committed any matters or things contrary to the trust reposed in him and against the intent and meaning of the said Act, may have it in his power to evade the penalty and frustrate the design of the same, if due care be not taken; which may be of evil consequence to this Collony, for the security, defence and preservation whereof the said Act was principally and wholly intended;

Preamble.

I. *Be it therefore enacted* by his Excellency William Lord Craven, Palatine, and the rest of the true and absolute Lords and Proprietors of the

A. D. 1711.

John Wright
made liable to
a penalty of
£200.

Province of Carolina, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of the said Province, and by the authority of the same, That the said John Wright shall be and he is hereby subjected and made liable to the forfeiture or penalty of two hundred pounds (being the sum mentioned in a certain obligation entered into by the said John Wright when he became agent, if the said obligation be not found and delivered uncanceled to the Receiver for the time being, within thirty days after the ratification hereof,) according to the directions of an Act of Assembly entitled an Act for the better regulating the Indian Trade, for any breach heretofore by him made of the said recited Act, and which may, might, can or would have been construed, deemed, found and adjudged to be a breach of the said Act or of the condition of his said recited obligation, in any court of record in this Province; which condition is contained in these express words following, viz:

Condition of
Wright's bond.

The condition of this obligation is such, that if the above bound John Wright, during the time he shall continue agent, do execute and perform all the powers and authorities given him by the Act entitled an Act to regulate the Indian Trade and making it safe to the Publick, then the above obligation to be void, else to remain in full force and virtue.

Which said penalty or forfeiture, for any breach of the said condition, or of the trust reposed in him, or duty required of him by the said recited Act, at any time during his former agency, shall be recovered in any court of record in this Province, by bill, plaint or information, wherein no protection, injunction, privilege or wager of law shall be allowed or admitted of; one half part of such forfeiture to be for the use of the informer or prosecutor, and the other half part thereof to be paid to the Receiver for the time being, for the use of the publick, (excepting such cases only for the omission or commission whereof the said recited Act has affixed a certain and distinct penalty.)

Wright ordered
to Charleston,
to give security
and then return
to his agency.

II. *And be it further enacted* by the authority aforesaid, That the said John Wright shall, some time within thirty days after the ratification of this Act, repair to Charlestown, and there enter into an obligation, with two sufficient securities, before the commissioners, in such sum or penalty and with condition as the said Act directs; and after having so done, he the said John Wright shall not stay in the settlement, but return to the execution of his agency in ten days, if required thereunto by the commissioners, under the penalty of the loss of his salary now or hereafter to be due, and of being rendered incapable of being any longer agent.

Penalty on
destroying the
bond.

III. *And be it enacted* by the authority aforesaid, That if any person or persons shall at any time or times hereafter, within the space of two years, be convicted by confession or verdict, of cancelling, making void, concealing, or making away with the said recited obligation now not to be found, shall be sett in the pillory in Charlestown two whole hours.

Bond to be void
if not delivered
to the Receiver
within 30 days.

IV. *And it is further enacted* by the authority aforesaid, That if the above and before mentioned obligation be not delivered up to the Receiver for the time being, fair and uncanceled, within thirty days after the ratification of this Act, then and in such case the same is hereby declared void and of none effect, any thing in the said recited obligation or in this Act contained to the contrary in any wise notwithstanding.

*Read three times and ratified in open Assembly,
the 28th day of June, 1711.*

ROBERT GIBBES,
JNO. GIBBES,
CHA. BURNHAM,

SAM. EVELEIGH,
STEPHEN GIBBES.

A. D. 1711.

AN ACT to encourage Strangers to come to this Port, by making Sullivan's Island more remarkable by building a new Look-Out, repairing the old house, and buoying the Channel.

No. 301.

(Ratified March 1, 1710-11. The original Act not now to be found. Repealed by No. 339, Dec. 18, 1713.

AN ACT FOR REVIVING AND CONTINUING SEVERAL ACTS THEREIN MENTIONED THAT ARE EXPIRED OR NEAR EXPIRING.

No. 302.

WHEREAS, divers of our temporary laws, which by experience have been found useful and beneficial to the publick, are some of them already expired, and others near expiring; therefore, for the reviving and continuing the same,

I. *Be it enacted* by His Excellency William Lord Craven, Pallatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the Members of the General Assembly, now met at Charlestown for the south west part of this Province, and by the authority of the same, That an Act of Assembly of this Province entituled an Act for the better ordering of Slaves, ratified in open Assembly the twenty-eighth day of August, one thousand seven hundred and one; and an Act to prevent the Sale of Leather not sufficiently tanned, ratified in open Assembly the seventeenth day of September, one thousand seven hundred and three; and an Act entituled an Act for the better settling the Militia, ratified in open Assembly the nineteenth day of July, one thousand seven hundred and seven; and an Act entituled an Act for ascertaining Publick Officers Fees, ratified in open Assembly the eighth day of October, one thousand six hundred ninety-eight; and an Act entituled an Act inhibiting the tradeing with Servants and Slaves, ratified in open Assembly the sixteenth day of March, one thousand six hundred ninety five or six; and an Act entituled an Act to prevent Mariners and Seamen running into Debt, ratified in open Assembly the sixteenth day of March, one thousand six hundred ninety five or six; and an Act entituled an Act for the Entry of Vessels, ratified in open Assembly the eighth day of October, one thousand six hundred ninety eight; and an Act to prevent Runaways from deserting this Province, ratified in open Assembly the first day of March, one thousand seven hundred; and an Act entituled an Act for the Tryal of Small and Mean Causes, ratified in open Assembly the fifteenth day of October, one thousand six hundred ninety two; and an Act entituled an Act for the encouragement of killing and destroying Beasts of Prey, ratified in open Assembly the eighth day of May, one thousand seven hundred and three; and an Act entituled an Act for raising and enlisting such trusty Slaves as shall be thought serviceable to this Province in time of Allarms, ratified in open Assembly the twenty-fourth day of April, one thousand seven hundred and eight; and an Act entituled an Act for the raising of a Publick Store of Powder for the defence of this Province, ratified in open Assembly the twelfth day of July, one thousand seven hundred and seven; and an Act entituled an Act to erect a General Post Office, ratified in open Assembly the twelfth day of July, one thousand seven hundred and seven; and an Act entituled an Act for ascertaining the Fees relating to the office and duty of a

A. D. 1711.

Justice of the Peace, ratified in open Assembly the seventeenth day of May, one thousand seven hundred and nine; and an Act entituled an Act for settling a Watch in Charlestown, ratified in open Assembly the seventeenth day of May, one thousand seven hundred and nine; and an Act entituled an Act to settle a Guard at Johnson's Fort, ratified in open Assembly the seventeenth day of May, one thousand seven hundred and nine; and an Act entituled an Act for makeing and mending Highways and Paths, and for cutting of Creeks and Water-courses, ratified in open Assembly the eighth day of October, one thousand six hundred ninety-eight, and all other additional Acts relating to the Highways, not inconsistent with or contradictory to the said last recited Act—are hereby declared revived, continued and enacted to be in force for and during the full term and time of two years after the ratification hereof, and from thence to the end of the first sessions of the next General Assembly, and no longer.

II. *And be it further enacted* by the authority aforesaid, That the Honourable the Governour shall have power, and he is hereby desired and impowered, forthwith to place and put in such commissioners as are or may be wanting on any publick road or highway, who are hereby declared to have the same powers as any commissioners have or might have had by virtue of any of the said Acts, and be under the same penalties for refusing and not performing the duty, as any the said commissioners are made liable to by any of the aforesaid Acts—and the Governour for the time being is hereby desired and impowered to take upon him the like nomination of commissioners, as often as there is occasion for the same.

*Read three times, and ratified in open Assembly,
the twenty-eighth day of June, 1711.*

ROBERT GIBBES,
JNO. GIBBES,
CHAS. BURNHAM,
SAM. EVELEIGH,
STEPHEN GIBBES.

NOTE.—The following Acts are revived and continued for two years, viz: Nos. 83, 135, 136, 164, 165, 188, 191, 194, 210; also, the Act concerning Leather, Sept. 17, 1703; the Act for raising a Publick Store of Powder, July 12, 1707; the Act to erect a General Post Office, July 12, 1707; Act No. 270, concerning the Militia; Act No. 278, for enlisting Slaves; Act No. 281 relating to Justices fees; Act No. 282, for settling a Watch in Charlestown; Act No. 285, to place a guard on Johnson's Island.

No. 303.

AN ACT FOR REGULATING TAVERNS AND PUNCH-HOUSES.

Preamble

WHEREAS, the unlimited number of taverns, tap-houses and punch-houses, and the want of sobriety and discretion in the owners and masters thereof, have and will encourage all such vices as are usually the production of drunkenness and idleness; for the prevention whereof,

I. *Be it enacted* by his Excellency, William Lord Craven, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, and by the authority of the same, That no person, in six days from and after the ratification of this Act, shall sell any wine, cyder,

beer, brandy, rum, punch, or any strong drink whatsoever, under the quantity of one gallon at one draught, and that not to be drank in the house of the seller, or within the precincts thereof, until he, she or they, have first obtained a licence from the publick Receiver of this Province for the time being, for selling the aforesaid liquors under the quantity aforesaid, under the forfeiture and penalty of forty shillings for every time he, she or they shall sell any quantity less than one gallon, and that not to be expended and drank in the house of the seller of such quantity as aforesaid, to be recovered by warrant and prosecution before any one or more Justices of the Peace, in like manner as in and by the Act for the Trial of Small and Mean Causes, is directed, the one half of such penalty and forfeiture to be paid to the publick Receiver for the time being, for the use of the publick, and the other half to him or them that will prosecute and sue for the same.

A. D. 1711.

No person to retail liquors without a licence.

II. And for the prevention, suppression and punishment of such vices, as are commonly practiced in such publick houses, *Be it enacted* by the authority aforesaid, That any two Justices of the Peace shall have power, and they are hereby impowered to put in execution all laws, both statute and common, of the Kingdom of Great Britain, which have been provided and used, and now of force, for or concerning the abuses or disorders of taverns, ale-houses or victualing houses, and retailing any sort of strong liquors whatsoever, and the owners and masters thereof, and all persons which contrary to the said laws do haunt and frequent the same, as fully and effectually to all intents and purposes as the same ought or could be within the Kingdom aforesaid, by any or every person or persons thereunto impowered by the said laws; and every person which shall offend, contrary to the said laws, or any of them, are declared to be, and are hereby made liable to the same forfeitures and penalties to be levied and inflicted, as by the same is accustomed and appointed in the Kingdom of Great Britain.

III. *And be it further enacted* by the authority aforesaid, That every person which, after the ratification hereof, shall or doth retail any strong liquors, shall pay to the publick Receiver of this Province, for the time being, for each licence for selling the same, for the term and time of one year after the date of the said licence, the sum of six pounds, current money, for retailing wine and all sorts of strong liquors, and the sum of four pounds current money, for retailing of any or all sorts of strong liquors, wine excepted.

Price of the licences.

IV. *And it is further enacted* by the authority aforesaid, That every person or persons, at the time they receive their licence, or before, shall enter into an obligation to the publick Receiver for the time being, which shall be by him taken in his own name, for the use of the publick, with such penalties and under such condition as the said Receiver, together with Colonel William Rhett, Colonel Hugh Grange, and Mr. Ralph Izard, commissioners hereafter named, or any two of the said commissioners, shall think reasonable and sufficient for the purposes aforesaid. *Provided*, nevertheless, and it is hereby enacted, That any planter may sell liquors to his neighbours, to be drank and expended in the buyer's respective plantations, without a licence from the Receiver for so doing. And every planter or person not inhabiting in Charlestown, who shall sell liquors to any person, and suffer the same to be expended and drank in his own house or plantation, or within the precincts thereof, without licence from the said Receiver for so doing, shall be liable to the penalties herein before mentioned and expressed.

Retailers to enter into bond.

Proviso.

A. D. 1711.

No person to
carry liquor
from plantation
to plantation.

V. *And whereas*, several persons of late have used in boats and canoes to carry liquors from plantation to plantation, and to retail and sell the same, which is observed to be very mischievous, and to impoverish the otherwise sober planters; *It is therefore further enacted* by the authority aforesaid, That every person that shall hereafter carry any strong liquors from house to house, either by land or water, to sell or retail the same, shall, for every time he, she or they shall be convicted thereof, by his or their own confession, or proof of one evidence upon oath before any one Justice of the Peace, forfeit the sum of forty shillings, to be recovered in such manner and form as in the Act for the Tryal of Small and Mean Causes is appointed.

£120 to be paid
the Governour
in lieu of
licence money.

VI. *And whereas* the monies arising from the grants of licences for retailing of strong liquors, have, in times past, been paid and allowed to the Governour of this Province for the time being, and the sole power of granting such licences vested in him, by which means so many and such disorderly persons have been licenced to keep publick houses, as have given great scandal to the sober and peaceable inhabitants of this Province; for the remedying whereof, and for the abridging of the number, as well as the licentiousness of the keepers of such publick houses, all the moneys arising from the licences hereafter to be granted, according to the purport of this Act, are hereby taken into the publick treasury for the use of the publick; *Be it therefore enacted*, and it is hereby enacted by the authority aforesaid, That from and after the ratification of this Act, the sum of one hundred and twenty pounds current money shall be paid, and the publick Receiver for the time being is hereby required and empowered to pay unto the Honourable Robert Gibbes, Esq., present Governour of this Province, and to his successors, Governours for the time being, at quarterly payments, the sum of one hundred and twenty pounds current money per annum, and so in proportion for a longer or shorter time than a quarter of a year, in lieu and in full for all demands for licence as aforesaid.

Receiver not to
grant licences
without the
consent of the
Commissioners

VII. *And be it further enacted* by the authority aforesaid, That the present Receiver, or the Receiver for the time being, shall, before he give out any licence or licences for the retailing of strong liquors, according to the intent and meaning of this Act, first have the advice, approbation and consent of Colonel William Rhett, Colonel Hugh Grange, and Mr. Ralph Izard, or any two of them, who are hereby authorized and empowered to forbid, hinder or restrain the said Receiver, or the Receiver for the time being, to give or grant any licence or licences to any person or persons who require the same of the Receiver, who they shall in their judgment think unfit and unqualified to keep a publick house, or retail any strong liquors as aforesaid; and if the said publick Receiver, or the Receiver for the time being, shall presume to grant any licence without such consent, advice and approbation first had and obtained, he shall forfeit the sum of twenty pounds current money for each licence so granted, to be recovered by bill, plaint or information, in any court of record within this Province, by any person who shall inform and sue for the same, to be disposed one half to the prosecutor, and the other half to the use of this Province.

and to receive
7s. 6d. for the
licence.

VIII. *And be it further enacted* by the authority aforesaid, That it shall and may be lawful to and for the publick Receiver, and for the Receiver for the time being, to have and receive of any person or persons, to whom licences shall or may be granted, according to the purport and design of this Act, the sum of seven shillings and sixpence for writing the bond or licence aforesaid, and for keeping the same

fairly entered in a book to be kept for that purpose; and no person hereafter, except the said Receiver, shall claim or demand any fee or reward for the same, any law, statute or usage to the contrary hereof in any wise notwithstanding.

A.D. 1711.

*Read three times, and ratified in open Assembly,
this 28th day of June, 1711.*

ROBERT GIBBES,
JOHN GIBBES,
CHA. BURNHAM,
SAM. EVELEIGH,
STEPHEN GIBBES.

AN ACT for continuing the High Road from South-Edisto River to the Islands of Port Royal and St. Helena, and appointing Bridges and Ferries in the said Road.

No. 304.

(Ratified November 10, 1711. *See last volume.*)

AN ACT for the Encouragement of Trade and Navigation, by building and owning of Ships and Vessells by the Inhabitants of this Province and others, and encouraging Artificers to come into and build the same.

No. 305.

(Ratified June 28, 1711, for five years. See Reviving Acts of June 30, 1714, and July 5, 1718, and Dec. 17, 1720, which continue this Act for two years. Expired. The original much worn and mutilated.)

AN ACT for the keeping and Maintaining a Watch and good orders in Charlestown.

No. 306.

(Ratified November 10, 1711. *See last volume.*)

AN ADDITIONAL ACT to an Additional Act (No. 249) to an Act entitled an Act for the cutting and making a Path out from the Road on the North side of Ashley River, to the town of Wilton in Colleton County, and appointing Ferries on the said Road, (No. 218)—and to repeal three clauses or paragraphs in the said Additional Act.

(Ratified November 10, 1711. The original of this Act is not now to be found. I have copied what Trott preserved of it, p. 185, 186, &c. It is Act No. 311 of Trott, and No. 309 of Grimke. The true number of the original Act, I am unable to ascertain. The first section is repealed. See section 29 of the Highway Act of Sept. 15, 1721. *See last volume.*)

A.D. 1711.

AN ACT for the raising the sum of Four Thousand Pounds current Money, by laying sundry additional Duties on Liquors, and other Goods and Merchandizes, for the carrying on an Expedition against the Northern Indians, Enemies to the Crown of Great Britain, and for the aiding and assisting the Inhabitants of North Carolina, who are now actually invaded by the said Indians.

(Ratified November 10, 1711. The original Act not now to be found, nor the original number ascertained. It is No. 313 of Trott, and 311 of Grimke. In part repealed by Act of June 30, 1716. Now obsolete.)

No. 307. *AN Additional ACT TO THE SEVERAL ACTS RELATING TO THE ESTABLISHMENT OF RELIGIOUS WORSHIP IN THIS PROVINCE, AND NOW IN FORCE IN THE SAME, AND ALSO TO THE ACT FOR SECURING THE PROVINCIAL LIBRARY AT CHARLESTOWN IN CAROLINA.*

Preamble.

WHEREAS, by an Act of Assembly of this Province, duly ratified in open Assembly, the thirtieth day of November, in the year of our Lord one thousand seven hundred and six, entitled an Act for the Establishment of Religious Worship in this Province, according to the Church of England, and for the erecting of Churches for the Publick Worship of God, and also for the Maintenance of Ministers, and for the building convenient Houses for them; amongst other things it was enacted, "that the commissioners appointed by the said Act, to exercise all the authorities and powers given them, as commissioners, by the said Act, in the several parts thereof, who shall meet upon publick summons, as directed by the said Act, shall not be less than eleven;" and whereas, by reason of the said commissioners being dispersed in the several parts of this Province, it is often very difficult to procure the said number of eleven to meet, whereby the publick business of the said Act is oftentimes obstructed and delayed;

Eleven of the
Commissioners
to constitute
a quorum.

I. *Be it therefore enacted* by his Excellency William Lord Craven, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, and by the authority of the same, That the commissioners of the said Act, being appointed to meet upon the two usual days in the year hereafter appointed by this Act, or at any other time, being publickly summoned, as directed by the above recited Act, if the number of eleven persons of the said commissioners so meet, and the majority consent, they may put in force and execution any of the powers granted to the commissioners by the said Act, or by this Act, or by any other additional Act to the said Act for the establishment of religious Worship, &c. and now in force in this Province; and that any number of the said commissioners so appointed to meet, provided they are not less than five, shall have power to adjourn; any thing in the above recited Act, or in any other Act, to the contrary thereof in any wise notwithstanding.

II. *And whereas*, by the above recited Act, it is enacted, "that it shall and may be lawful for the commissioners of the said Act, to meet and transact the business of the said Act, twice in the year, that is to say, on the second Tuesday in January, and on the second Tuesday in July, at the

Church in Charlestown, without any notice or warning to be given thereof;” and it being more convenient, that the usual publick meetings of the said commissioners should be at such time as there is other publick business of the Province to be transacted, which drawing together several persons upon other occasions to Charlestown, there will usually be present there a sufficient number to meet as commissioners, to transact the business of the said Act; *Be it therefore further enacted* by the authority aforesaid, That the two constant times in the year for the meeting of the said commissioners, without notice or warning to be given thereof, instead of the second Tuesday in January and July, shall be the third Wednesday in March, and the third Wednesday in October, that being the time of the publick General Sessions to be holden for this Province; the meeting of the said commissioners to be at the evening of the said day.

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Commissioners meetings to be on the third Wednesday in March and October.

III. *And whereas*, by the above recited Act it is ordained and appointed, that the several rectors or ministers of the several parishes shall be chosen by the majority of the inhabitants, of the Church of England, and are otherways qualified as directed by the said Act; but in case any differences or disputes shall arise, concerning the validity of the said election, and also concerning the qualifications and rights of the said electors to vote, there is no provision made in the said Act for the determination of the same; *Be it therefore further enacted* by the authority aforesaid, That the commissioners appointed according to the direction of the said Act, or the major part of so many of them as shall meet according to the directions of this Act, shall have full power and authority to hear and finally to determine all manner of differences and disputes that shall arise concerning the validity of any election of the ministers of the several parishes, and concerning the qualifications and rights of the electors, or any other matters relating to such elections; and upon any order given out by the commissioners, for the meeting of the parishioners, for the choosing any rector or minister of any of the several parishes, the electors shall make a returne of such order and the election made, pursuant to the same, within two months at farthest after such election made, annexed to the said order, that so in case any dispute shall arise concerning such election, the same may come before the said commissioners, and be finally determined by them; and in case such returne shall be omitted to be made, it may be lawful for the said commissioners to declare such election void, and to issue out their new orders for another election, when they shall be thereunto legally required, or shall think the same convenient to be done.

They are to hear and settle all differences concerning elections of ministers.

IV. *And be it further enacted* by the authority aforesaid, That in case of the death or other vacancy of a rector or minister of any of the several parishes, that it shall be lawful for the said commissioners to give order to any person or persons they shall think fitting to take the charge and care of the church and church-yard, and the parsonage house and glebe land, and to keep the keys, books, plate and other utensils belonging to the same, or otherwise to order the same as to them shall seem fit and convenient. And in case any person or persons shall intrude into any of the parsonage houses, or shall pretend to take possession thereof or dwell therein, in the time of such vacancy, without leave from the said commissioners, upon complaint made by any three of the said commissioners thereof to the Governour and Council of this Province, it shall be lawful for them to direct their warrant to the Provost Marshall of this Province, or to any of the constables thereof, or to all or any of them, to enter into the said house and to remove such persons from the same, and also to bring such person or persons before them, and upon examination of the said persons, if they shall think fitting, commit such person or

In case of death or vacancy, the Commissioners to order any one to take care of the church and property.

A. D. 1712.

persons to prison till he or they shall give sufficient security for the future that they will not presume to intrude into, or dwell, or take possession of the said parsonage house or any houses or dwellings belonging to the same, and that they shall give up and deliver the keys thereof, or any books, plate or utensils belonging to the same, in case they have had them in their custody or possession, to such person or persons as the said commissioners shall order to receive the same. And till such time as such orders as aforesaid shall be given by the said commissioners, that the church wardens of the several parishes, or if no church wardens, the vestry of the said parishes, in case of a vacancy of a minister shall take such charge and care of the church, church-yard and parsonage house, and glebe land, and shall keep all the keys, books, plate and other utensils belonging to the same.

The salary of rectors to be paid from the day of their arrival.

V. And for the encouragement of ministers to come over to this Province to supply the several parishes thereof, *Be it further enacted* by the authority aforesaid, That upon the arrival of any minister in this Province, recommended to supply any of the several parishes thereof, by the Right Honourable and Right Reverend Father in God, Henry, Lord Bishop of London, or his lawful successors, or by the Honourable Society founded by the royal charter in the Kingdom of England, by the name of the Society for the Propagation of the Gospel in Foreign Parts, that such minister being chosen the rector or minister of any parish in this Province, that the time for the payment of his salary shall commence from the day of his arrival in this Province. And as a further encouragement of such minister, and that he may have some monies for his present use, that the said minister laying his testimonials and recommendations before the said commissioners, and being approved of by them as a fit person to be a minister in this Province, it shall be lawful for them, the said commissioners, to order the publick Receiver to pay unto such minister the sume of twenty-five pounds, current money of this Province; and the said publick Receiver is hereby required and commanded to pay the same accordingly, such parson at the same time entering into bond to the publick Receiver for the time being, and his lawful successors, in the penal sum of fifty pounds, conditioned, that in case the said parson shall refuse to officiate as a minister in any of the parishes of this Province, if he be legally elected or otherwise legally appointed to officiate therein, or having undertaken so to officiate, shall wilfully leave the same in less than two years, excepting in exchange for any other parish in this Province, or shall depart this Province at any time within two years after the receipt of such money as aforesaid, then to repay the said sume of twenty-five pounds to the said publick Receiver, or to his lawful successors, for the use of the publick Treasury of this Province.

Rector to give bond.

Vestrymen and church wardens to be chosen at any time.

VI. *And whereas*, by the said Act for the establishment of religious worship, &c., it is further enacted, that the vestry men, and also the church wardens of the several parishes, shall be chosen yearly, on Easter Munday. *And whereas*, it may often fall out by reason of bad weather, or for several other causes and unforeseen accidents, the parishioners may not then meet according to the direction of the said Act, for the making such choice of vestry men and church wardens, according to the directions of the said Act; *Be it therefore further enacted*, by the authority aforesaid, That if by any means whatsoever, the parishioners of all or any of the several parishes of this Province shall omit to meet yearly on Easter Munday to make choice of vestry men and church wardens for the year ensuing, that then and in such case it shall be lawful for the said parishioners to meet at any other time in the year to make choice of vestry men and church wardens, or

either of them, publick notice being given two several Sundays before such election. And in case there shall be living a sufficient number of the vestry men chosen the year before, as also of church wardens, the said old vestry men and church wardens shall continue in their respective offices and act in the same till such new election is legally made as aforesaid.

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VII. *And be it further enacted* by the authority aforesaid, That in case of the death, removal out of the parish, or other legal-discharge of any of the church wardens chosen as aforesaid, that the vestry of such parish may have power to appoint a fit person, qualified according to the direction of the said Act, to be church warden, and to officiate in the said office of church warden during the remaining part of the time that the said church wardens so dead or otherwise discharged, should have officiated in the same.

In case of
vacancy the
vestry to
choose church
wardens.

VIII. *Whereas*, by one other Act of Assembly of this Province, duly ratified in open Assembly the eighth day of April, in the year of our Lord, one thousand seven hundred and ten, entitled a further additional Act to an Act for the Establishment of Religious Worship in this Province, according to the Church of England, and for the erecting of Churches for the Publick Worship of God, and also for the maintenance of Ministers and the building convenient houses for them, amongst other things it is enacted, that after the houses and out-houses of each glebe or parsonage in the several parishes being put in good order and well repaired, the several respective ministers of each of the several parishes shall keep their Houses and out-houses in good order and well repaired during their abode in the parish. Now for the better execution of that part of the said Act, according to the true intent and meaning thereof, and also for the supplying of any defects that may be in the same, and that the several dwelling houses and out-houses on the said several glebes may always be kept in good repair, *Be it further enacted* by the authority aforesaid, That it shall and may be lawful for the church wardens and the vestrys of the several parishes, or either of them, at any time, with the assistance of workmen or other skilful persons, to view the several buildings on the several glebes, and in case they find them out of repair, to require the rector or minister to have the same repaired at such convenient time as to them shall seem reasonable; and in case the said rector or minister shall refuse to have the same repaired, that upon complaint made to the said commissioners of the above recited Act for the Establishment of Religious Worship, &c., if they think the same necessary, they may order the said repairs to be made; and to defray the charges of the same, may give their order to the publick Receiver to stop so much as the charges of the repairs shall amount unto, out of the next payment of such minister's salary that shall be due. And in case of the removal of any rector or minister from any the parishes of this Province, it shall be lawful for the church wardens or the vestry of such parish, or both of them, to view the dwelling house and other the buildings on the glebe, and in case they are out of repair, shall order the said rector or minister to repaire the same at such time as they shall think convenient; or in case they fear the said rector or minister may leave this Province before such repairs can be made, that then the said church wardens or vestry may order an estimate of the same to be made, and the said rector or minister shall be obliged to pay such sum as the same is estimated, or secure the same to be paid in two months, or in case of failure thereof, the same may be recovered by action of debt, or on the case, brought by the church wardens in any Court of Record in this Province; or in case there is no church wardens, or they shall refuse to bring such action, that the same may be sued for and recovered by information brought by the At-

Rector to repair
the buildings.

In case of
neglect, the
charges to be
stopped out of
the rector's
salary.

The minister
upon his
removal to
repair the
buildings on the
glebe.

A. D. 1712.

ney General of this Province, in the name of the Palatine and Lords Proprietors; and the money so recovered to be laid out upon the repairs of the dwelling house or other the buildings on the several glebes. And in case of the death of any the said rectors or ministers, the like remedy to be had against his executors and administrators for such decay of buildings or delapidations.

During vacancy the Commissioners may permit any person to dwell in the parsonage house, he keeping the same in repair.

If a person cannot be procured, the Church wardens to order the same to be repaired.

The account of such charges to be paid by the Receiver.

Upon the election of a new rector, repairs to be made and paid for out of the publick Treasury.

IX. But because by reason of the great distance of this Province from England, it may often happen that the parishes of this Province may be a long time vacant, by means of which the parsonage house and other the buildings on the several glebes may fall to decay, and it would be a great hardship on the rectors or ministers in case they should be obliged to repair the buildings which fell to decay during the vacancy, and not through their fault or neglect; Therefore, for the better preventing the several buildings on the several glebes from falling to decay during the vacancy of any parish of a minister, and in case they should fall to decay, to repair them again without any hardship to be put upon the rector or minister that shall be chosen into such parish, *Be it further enacted* by the authority aforesaid, That in case of the vacancy of any parish of a minister, during such vacancy it shall be lawful for the said commissioners, or till they shall give orders for the church wardens of such parish, or the vestry, or both, to permitt any person they shall think fitting to dwell in the parsonage house on such glebe, during such vacancy, on condition that they keep all the buildings on the said glebe in repair; and in case they cannot procure any person to dwell in such parsonage house upon those terms, that then it shall be lawful for the said church wardens or vestry, at any time, to view the said parsonage house and buildings, and to order the same to be repaired, and the account of the charges of such repairs being approved of by the vestry, it shall be lawful for the said vestry to draw an order on the publick Receiver for the payment of the same, and such order drawn by the vestrys of any of the several parishes of this Province, upon the publick Receiver, and approved of by the commissioners appointed by the above recited Act for the Establishment of Religious Worship, &c., or the major part of them, that shall meet as before directed by this Act, the publick Receiver is heroby authorized, required and commanded to pay the same; and in case there shall be no church wardens or vestry in that parish which shall be so vacant of a rector or minister, or in case of their neglect, it shall be lawful for the said commissioners of the church Act to order any person or persons in the said parish to take care of all the several buildings on the glebe, which person or persons so ordered by the said commissioners shall have all the authorities before by this Act given to the church wardens or vestry; and the account of the charges of such repairs, made by such person or persons so authorized by the said commissioners, being approved of by them, it shall be lawful for the said commissioners to give order to the publick receiver for the payment of the same, and the said publick Receiver is hereby authorized, required and commanded to pay the same accordinly.

X. And notwithstanding the provision and care taken by this Act, to prevent the several parsonage houses and other the buildings standing on the several glebes from falling into decay during the vacancy of a rector or minister as aforesaid, yet it may through negligence and other ways often happen that the same may fall to decay, which would be too great a burthen to a new rector or minister elected, if required to repair the same; therefore, *Be it further enacted* by the authority aforesaid, That upon the election of any new rector or minister to any of the parishes of this Province, it shall be lawful for the several church wardens of the several

parishes, at any time within two months after such election, upon the request of such rector or minister of the parish, with assistance of such workmen or other skilful persons as they shall think fitting to take with them, to view the dwelling house and other the buildings standing on the glebe land belonging to such rector or minister, and see what is wanting and necessary to be done for the repairs of the same, and shall make as near an estimate as they can of the charges thereof, and shall lay the same before the vestry of the said parish, and being approved of by them, shall cause the same to be repaired accordingly, and the charges thereof being given unto the said vestry, and approved by them, it shall be lawful for the said vestry to draw an order upon the publick Receiver of this Province, for the payment of the same, and such order so drawn by the vestry and approved of by the commissioners appointed by the above recited Act for the Establishment of Religious Worship, &c., or the major part of them, that shall meet as before directed by this Act, the publick Receiver is hereby authorized, required and commanded to pay the same; and after such repairs made, then the rector or minister to keep the same in repair, as before directed by this Act.

XI. *And whereas*, by the above recited Act for the Establishment of Religious Worship, &c., commonly called the Church Act, it is enacted that the commissioners of the said Act shall have power to nominate and appoint one or more persons, inhabitants of the said parish where the said church is to be built, to be supervisors for the building of the said church, and inclosing the said coemetry or church-yard, and the buildings that are to be upon the glebe, and in order to defray the charges thereof, that the said commissioners shall have power to draw out of the publick treasury of this Province, which the publick Receiver thereof is required to pay unto such supervisors, the full and just sum of three hundred thirty-three pounds six shillings and eight pence, current money of this Province. And whereas, several persons that have been appointed by the said commissioners supervisors for the several parishes, pursuant to the powers of the above recited Act, have neglected to account before the said commissioners for the said sum so by them received, although often ordered thereunto by the said commissioners; for the remedy of which, *Be it further enacted* by the authority aforesaid, That it shall and may be lawful for the said commissioners of the Church Act, or the major part of them that shall meet as before directed by this Act, to issue out their summons, directed to all or any of the said supervisors, strictly charging and requiring them to be and appear before them at such time and place as shall be mentioned in the said summons, then and there to lay their accounts before the said commissioners, and they to appoint one or more persons to audiate the same; and in case any person so summoned shall refuse or neglect to appear and lay his accounts before the said commissioners, excepting he shall make such reasonable excuse as shall be approved of by the said commissioners, every person so offending shall for the first offence forfeit the sum of five pounds, current money of this Province, the same to be levied upon him by warrant signed by the Governour of this Province, or the Chief Justice thereof, or any three of the said commissioners, who are hereby authorized to grant such warrant, directed to the Provost Marshall, or to all or any of the several constables of this Province, requiring them to levy the same by distress and sale of the goods and chattels of such defaulter, returning the overplus, after deducting such fees as shall be thought reasonable for levying the same by the person or persons that grant the warrant, or by attaching the person of such defaulter or offender, and keeping him in safe custody until he shall pay the forfeiture, together

A. D. 1718

Supervisors to
give in their
accounts to the
Commissioners.

Penalty in case
of refusal or
neglect.

A.D. 1712.

with such fees for the executing the said precept, as shall be thought reasonable as aforesaid, and for the second offence to forfeit double, and so for every offence the forfeiture to be increased five pounds, to be recovered as before directed; and in case the provost marshal or constable or constables to whom such warrant shall be directed, shall refuse to execute the same, he or they so neglecting his or their duty, shall forfeit double the sum mentioned in the said warrant to be levied, the same to be recovered by action of debt, or by information, in any Court of Record in this Province, all or any the said forfeitures to be disposed of to such charitable uses as the said commissioners shall think fitting.

XII. *Whereas*, by the above mentioned Act for the establishment of Religious Worship, &c., amongst other things it is enacted that the rector or minister of the parish of St. Dennis, for the French Settlement in Orange Quarter, shall be allowed but fifty pounds per annum, which shall be paid to him and his successors forever; and the said sum of fifty pounds per annum not being sufficient to maintain the said rector or minister, *Be it therefore enacted* by the authority aforesaid. That from and after the ratification of this Act, the present rector or minister of the said parish of St. Dennis, for the French Settlement in Orange Quarter, shall be allowed (as the other rectors or ministers are) the sum of one hundred pounds per annum, to be paid half yearly to him and his successors forever.

The Rector of
St. Dennis to
be allowed
£100 per
annum.

XIII. *Whereas*, several persons are settled to the Southward of Colleton county, on Port Royal Island, St. Helena's Island, and on several adjacent Islands, which together are commonly called by the name of Granville county, which persons are not only out of the bounds, but are also so far distant from either of the parishes in Colleton county, that they can receive no benefit by any of those churches, and several of the said inhabitants being desirous to have divine worship established amongst them, according to the Church of England, are willing to contribute towards the building a church, and afterwards for the building a rector's or minister's house, without any charge to the publick, provided that the said Granville county may be erected into a parish, and the rector or minister of the said parish may have the same salary paid him out of the publick treasury, as is given to other rectors or ministers of the other country parishes belonging to this Province; therefore, for the gratifying so reasonable a request and desire of the said inhabitants, and for the promoting the knowledge of the christian religion, as professed in the Church of England, and the worship of God in all parts of this Province, that so no persons, inhabitants thereof, may be destitute of enjoying the ordinances of God, appointed for their salvation, *Be it further enacted* by the authority aforesaid, That the said Granville county shall be, and is hereby declared to be, from henceforth forever, a distinct parish by itself, and it shall be called by the name of St. Helena, and the said parish shall be and is hereby bounded to the North East by Combehee River and St. Helena Sound, to the North West by a line drawn from the head of Combehee River to the Savano River, and to the South East on the Ocean.

Granville
county
declared to be
a distinct parish
by the name of
St. Helena.

The church of
the said parish
to be built on
Port Royal
Island.

XIV. *And be it further enacted* by the authority aforesaid, That the church and parsonage house for the said parish shall be built on Port Royal Island, on such part thereof as the major part of the said commissioners of the said Church Act, who shall meet according to the direction of this Act, shall agree upon, by and with the advice and consent of the major part of the inhabitants of the said precinct or parish, who are of the profession of the Church of England.

XV. *And be it further enacted* by the authority aforesaid, That the rector or minister of the said parish of St. Helena shall be elected and

chosen as the other rectors or ministers of the several other parishes, by the said Act for the Establishment of Religious Worship, &c., are ordered to be chosen, and shall have yearly paid to him and his lawful successors forever, the sum of one hundred pounds, to be paid him in the same manner as the other rectors or ministers of the several parishes are to be paid, and the publick Receiver for the time being is hereby authorized and required to pay the same, under the same penalties and forfeitures as for not paying the salary due to the other rectors or ministers of the several parishes of this Province; and the said rector or minister of the said parish of St. Helena, shall have and enjoy all such privileges and advantages, and shall also be under all such rules and laws as the other rectors or ministers of the other parishes are under.

A. D. 1712.

The rector of St. Helena to be chosen as other rectors are, and to enjoy the same privileges.

XVI. *Whereas*, in the above mentioned Act for the Establishment of Religious Worship, &c., it is enacted, that the clerk of each parish shall be allowed a salary yearly, not exceeding ten pounds, and the sexton not exceeding five pounds. But the clerk and sexton of the parish of St. Philip's, Charlestown, being at more trouble than the parish clerks in the country, in giving attendance and ringing the bells, not only on holidays, but also on every Wednesday and Friday constantly, and being at greater charge in living in the town, *Be it therefore enacted* by the authority aforesaid, That the clerk of the parish of St. Philip's, Charlestown, from and after the ratification of this Act, shall be allowed yearly any sum not exceeding twenty pounds, and the sexton, not exceeding ten pounds.

Salary of the clerk and sexton of St. Philip's.

XVII. *And whereas*, by the said Act entituled a further additional Act to an Act entituled an Act for the Establishment of Religious Worship, &c., amongst other things it is enacted and declared, that the parish charges shall not exceed forty pounds, current money, each year, into which parish charges by the said Act is reckoned the salaries due to the clerk and sexton, and there being by this Act an addition of fifteen pounds to the salary of the clerk and sexton of the parish of St. Philip's, Charlestown, it will be necessary to add the said fifteen pounds to the said forty pounds; *Be it therefore enacted* by the authority aforesaid, That from and after the ratification of this Act it shall be lawful for the vestry of the said parish of St. Philip's, Charlestown, to draw yearly upon the publick Receiver, according to the directions of the said Act, for their parish charges, not exceeding fifty five pounds, and the publick Receiver is hereby required and commanded to pay the same accordingly, in the same manner as is directed by the said Act for the payment of the forty pounds yearly for the said parochial charges.

£55 a year allowed for parish charges.

XVIII. *And whereas*, by the said Act it is provided, that no vestry of any one parish draw upon the publick Receiver for the parochial charges above once in the year; the true intent and meaning of which was, that they should not draw more in one year than the forty pounds; but as the said Act is worded, it hath been doubted whether the vestry can draw more than once in the year, although the several drawings exceed not in the whole, for one year, above forty pounds, which would be very inconvenient, not to allow the several vestries to draw as they have occasion for the said charges; *Be it therefore enacted* by the authority aforesaid, That from and after the ratification of this Act it shall be lawful for the said several vestries of each of the parishes to draw as often as they shall think fitting in the year, upon the publick Receiver, according to the directions of the said Act, for their several parish charges, provided the several sums in the whole year, to be computed from Easter to Easter, exceed not in the whole, for the parish of St. Philip's, Charlestown, the sum of fifty five pounds, and for the other parishes, the sum of forty pounds each, any thing in

The vestries of each parish may draw on the Receiver for parish charges as often as they think fit.

A. D. 1719.

If any part of the £40 shall remain, it shall be applied to the relief of the Poor.

Vestry of the Parish of Saint Philip's to elect commissioners when they think fitting.

Names of the Commissioners of the Library Act.

the above recited Act to the contrary thereof in any wise notwithstanding.

XIX. *And whereas*, by the said Act it is provided, that the vestry men of each parish shall not exceed to draw on the publick Receiver above the sum of forty pounds in one year, which is solely appropriated to the use of the church; *Be it enacted* by the authority aforesaid, That if any of the said sum of forty pounds remains unpaid in the publick treasury in one year, that from and after the ratification of this Act it may be lawful for the vestry to draw and apply what remains of the forty pounds to the relief of the poor of the said parish, and the publick Receiver is hereby required to pay the same, any thing in this Act or any other to the contrary in any wise notwithstanding.

XX. *Whereas*, by one Act of Assembly of this Province, duely ratified in open Assembly the first day of March, 1710-11, intituled an Act for the Erecting of a new Brick Church at Charlestown, to be the Parish Church of St. Philip's, Charlestown, amongst other things it is enacted, that in case of the death of the commissioners, or any of them, the vestry for the time being shall have power to nominate another in the stead and place of the commissioner or commissioners so deceased, but no provision made to supply the absence of any commissioner gone off from this Province, or to add to the number of the said commissioners, if it shall be thought necessary; *Be it therefore enacted* by the authority aforesaid, That it shall be lawful for the said vestry, and they are hereby impowered, not only to nominate another commissioner or commissioners, in the stead of any commissioner gone off from this Province, but also to add to the number of the said commissioners, by nominating one or more persons to be commissioner or commissioners, when and as often as the said vestry shall think fitting; and such new commissioner or commissioners, so nominated by the said vestry, shall have all the powers given to the other commissioners in the said Act, and as if they were by name inserted in the same.

XXI. *Whereas*, by one Act of Assembly of this Province, duly ratified in open Assembly the sixteenth day of November, in the year of our Lord one thousand seven hundred, intituled an Act for securing the Provincial Library at Charlestown in Carolina, amongst other things, it was enacted, that James Moore, Esq., then Governour, Joseph Morton, Nicholas Trott, Ralph Izard, Esqs., Captain Job Howes, Captain Thomas Smith, Mr. Robert Stevens, Mr. Joseph Croskeys, and Mr. Robert Fenwick, or any five of them, be the commissioners and trustees for the due inspection and preservation of the library; and whereas five of the said persons, viz. the said James Moore, Joseph Morton, Ralph Izard, Job Howes, and Joseph Croskeys, are since deceased, whereby there is not a sufficient number of persons now remaining in this Province to put in force the several powers granted to the said commissioners by the said Act; *Be it therefore enacted* by the authority aforesaid, That the Honourable Charles Craven, Esq., Governour, Arthur Middleton, Esq., Charles Hart, Esq., Colonel George Logan, and Colonel Hugh Grange, be and are hereby nominated commissioners of the said Act, and added to the remaining commissioners, to make up the number of nine; and they, the said commissioners, or the major part of them that shall meet pursuant to the direction of this Act, provided they are not less than five, shall have and execute all and singular the powers given the commissioners by the said Act.

XXII. *And whereas*, it is ordered and directed by the said Act, for securing the Library, that in case by death or absence there shall not be five of the commissioners in the Province, the Governour for the time

being shall nominate so many as will make up the number of five, who are to continue till the next meeting of the General Assembly, who shall then choose so many as shall make up the number of nine; *Be it enacted* by the authority aforesaid, That in case of the death or absence of any of the said commissioners, for the future, the remaining part of the said commissioners, or any five of them that shall meet, may by plurality of votes make choice of so many persons to supply the place or places of him or them so dead or gone off from this Province, as will make up the number nine; which persons, so chosen, shall be and are hereby declared to be commissioners for the said Act, as fully and amply as if they had by name been mentioned in the said Act, any thing in the said Act to the contrary thereof in any wise notwithstanding.

A. D. 1712.

In case of death or absence of Commissioners the residue of them are to elect others.

XXIII. *And whereas*, by the said Act the commissioners for the library are impowered once every year, on the fifth day of November, to visit the provincial library and to examine the books by the catalogue; *Be it enacted* by the authority aforesaid, That instead of the said fifth of November, the said commissioners shall meet yearly on the third Wednesday in March and the third Wednesday in October, at the same place the church commissioners are appointed to meet, and from thence may adjourn themselves to what day they think fitting, and visit the said provincial library at the parsonage house belonging to St. Philip's, Charlestown, according to the directions of the said Act. And at any other time the said commissioners shall think fitting, they may visit the said library, and shall have free access to the same, to see that the books are kept in order and not damaged or imbeziled.

Commissioners to meet on the 3d Wednesday in March and October.

XXIV. *And whereas*, by the said Act it is enacted, that the incumbent of St. Philip's, Charlestown, in lending any persons any books out of the said provincial library, shall oblige such persons to return them again ten days before the said fifth day of November; *Be it enacted* by the authority aforesaid, That from and after the ratification of this Act, all persons that shall borrow any books out of the provincial library, shall be obliged to return them ten days before the said third Wednesdays in March and in October, upon the same penalties as is prescribed by the said Act for not returning the books ten days before the said fifth of November, and the said penalties to be recovered as is directed by the said Act.

All persons that borrow books, to return them ten days before the said meetings.

XXV. *And whereas*, by the said Act all the inhabitants of this Province, without any exception, may have liberty to borrow any book out of the provincial library, giving a receipt for the same, which unrestrained liberty hath already proved very prejudicial to the said library, several of the books being lost and others damaged, and therefore, for the preservation of the said library, it will be necessary to lodge a discretionary power in the person that keeps the same, to deny any person the loan of any book that he shall think will not take care of the same; *Be it therefore enacted* by the authority aforesaid, That in case any person shall desire to borrow any book out of the said provincial library, which the keeper of the said library hath just reason to think will not take care of the said book and return the same in time, that in such case the said library keeper may refuse such person the loan of any book; any thing in the said Act for securing the library to the contrary hereof in any wise notwithstanding.

Librarian may refuse to lend books in certain cases.

XXVI. *And whereas*, there are several parochial libraries belonging to the rectors or ministers of the several parishes in this Province, given for the use of them and their lawful successors by the honourable Society for the Propagation of the Gospel in foreign parts, and by the Hon. Francis Nicholson, Esq. and other charitable persons; for the better preservation of the said libraries, *Be it enacted* by the authority aforesaid, That the

A. D. 1712. commissioners for the provincial library shall have power to authorize and empower any one or more persons, as to them shall seem convenient, to make catalogues of the books belonging to each of the said parochial libraries, and to dispose of the said catalogues as before directed by the said Library Act, and also to empower any of the said persons to visit the said libraries and to compare the books with the catalogues and see that they are in good order, and further to exercise all the powers and authorities given by the said Library Act to the commissioners of the provincial library.

Catalogues to be made of the parochial libraries.

Penalty for neglect.

XXVII. *And whereas*, the commissioners of the Church Act and the said Library commissioners are by the said Acts and by this Act to meet twice in the year and at other times upon publick summons, but there is no penalty laid upon the defaulters, whereby it often happens that a sufficient number doth not meet to transact the business; *Be it therefore enacted* by the authority aforesaid, That every one of the said commissioners who shall not meet upon the usual days appointed for their meeting, and at other times upon publick and legal summons, shall forfeit the sum of twenty shillings, except they can make such reasonable excuse, within twenty days after such default, as shall be approved of by the major part at the next meeting of the said commissioners; the said forfeitures to be levied and disposed of as is before directed for the other forfeitures mentioned in this Act.

*Read three times, and ratified, in open Assembly,
this seventh day of June, Anno Dom. 1712.*

CHARLES CRAVEN,
CHARLES HART,
AR. MIDDLETON,
THO. BROUGHTON,
RICH. BERESFORD,
SAM. EVELEIGH.

No. 308.

AN ACT FOR THE ENCOURAGEMENT OF LEARNING.

(One half of a leaf of the original Act is torn off. What remains is here copied.)

Preamble.

WHEREAS, several sums of money have been given by well disposed persons for building a free school, which cannot at this time be done conveniently; to supply which defect for the present,

John Douglas to be master of the school in Charlestown.

I. *Be it enacted*, by his Excellency the Palatine, and the rest of the true and absolute Lords Proprietors of Carolina, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of the said Province, and by the authority of the same, That from and after the ratification of this Act, John Douglas shall be and is hereby declared to be Master of a Grammar School in Charlestown, for teaching the Greek and Latin languages, and shall choose one usher to the said school, who is empowered and required to assist the master aforesaid in teaching the languages, reading, English, writing, arithmetick or such other parts of the mathematics as he is capable to teach.

* * * * *

III. *And whereas*, Mr. Benjamin Dennis is sent over by the recommendation of the honourable Society for the Propagation of the Gospel in foreign parts, to be a school master for the parish of St. James, Goose Creek, in which parish he having been a considerable time to great satisfaction and approbation of the inhabitants thereof, therefore worthy our consideration, and whereas there cannot be sufficient provision made for the maintenance of the said Dennis in the parish, by reason of the neglect of many of the said parishioners, which for the future (if not prevented) will be a discouragement to that honourable Society's sending over such school masters as will be wanting in this Province; to prevent which, and that some encouragement may be given to the said Dennis out of the publick treasury, *Be it enacted* by the authority aforesaid, That from and after the ratification of this Act the publick Receiver for the time being shall pay unto the aforesaid Mr. Benjamin Dennis a salary of sixteen pounds a year, which salary shall be paid at four equal quarterly payments, and shall continue to be paid during the space and term of three years after the ratification of this Act.

A. D. 1712.

A salary of
£16 a year
appointed.

IV. *Be it further enacted* by the authority aforesaid, That the aforementioned John Douglas, schoolmaster, aforesaid, shall take and receive for each scholar to whom is taught in the school aforesaid the Greek and Latin tongues, the sum of three pounds a year, and so a proportional sum for a longer or shorter time; and for every scholar to whom is taught English, writing, arithmetick or any other parts of the mathematics, such a sum as shall be agreed upon betwixt the master aforesaid and the learner himself or any other in his behalf; and that two thirds of all money received from the scholars taught in the school aforesaid, by the master and usher above mentioned, shall be for the proper use of the master, John Douglas, aforesaid, and the other third part for the use of the usher.

£3 a year to
be paid for
each scholar.

V. *Be it likewise enacted* by the authority aforesaid, That if any person refuse or neglect to pay what he agreed to pay to the schoolmaster above mentioned, either for being taught or for having any other taught by his agreement or order, such sum so neglected or refused to be paid shall be recovered by the master aforesaid, after such manner as is directed by one Act entitled an Act for the Tryal of Small and Mean Causes.

Master may
recover his pay
for scholars by
suit at law.

VI. *Be it further enacted* by the authority aforesaid, That in case of the death or surrender of the schoolmaster aforesaid, another shall be appointed in his place by order of the General Assembly, and shall enjoy the salary and other benefits allowed by this Act, as if he were therein expressly mentioned.

In case of death
or surrender
another school-
master may be
appointed.

VII. *Be it further enacted* by the authority aforesaid, That the schoolmaster above mentioned, shall not be superseded or divested of the place, salary and perquisites given unto him by this Act, by any other authority whatsoever, unless by ordinance of the General Assembly.

He may not be
displaced but
by the General
Assembly.

VIII. *Whereas*, by an Act entitled an Act for Erecting and Founding a Free School, &c., there is no provision made for choosing a president on the death, absence or resignation of the president nominated in the said Act, and whereas, Colonel Edward Tynte, the president nominated by the Act aforesaid, is since deceased, by which means the surviving commissioners cannot proceed to transact the business of the said Act; *Be it therefore enacted*, That the Honourable Charles Craven, Esq., Governour, be and is hereby nominated and appointed president to the said commissioners, and hereby declared to have all the powers and authorities which by the said Act were vested in Colonel Edward Tynte, aforesaid, as fully and to all intents and purposes whatsoever, as if the said Charles Craven was nominated president in the body of the said Act.

A president of
commissioners
appointed.

A. D. 1712.

Forfeiture for
commissioners'
nonattendance.

IX. *And be it further enacted*, That if any of the said commissioners shall neglect to attend, being duly summoned as in the said Act is directed, such commissioner or commissioners shall forfeit ten shillings for every day that the commissioners shall meet to transact the business of that Act, unless he or they so neglecting to attend shall give the commissioners, or the major part of them, such reasons as to them shall be satisfactory; and the forfeitures arising by the neglect of the said commissioners to attend, shall be disposed of as the majority of the commissioners then met shall order and appoint.

*Read three times and ratified in open Assembly,
the seventh day of June, 1712.*

CHARLES CRAVEN,
CHARLES HART,
ARTHUR MIDDLETON,
THO. BROUGHTON,
RICH. BERESFORD,
SAM. EVELEIGH.

NOTE.—Repealed by sect. 24 of the Free School Act, of December 12, 1712—No. 319.

No. 309. AN ADDITIONAL ACT to an Act entitled an Act to provide Indifferent Jury-men in all Causes, Civil and Criminal. (No. 119.)

(Ratified June 7, 1712. Repealed by sect. 45 of the Jurymen's Act, of August 20, 1731. The original of the present Act not now to be found.)

No 310. AN ACT for the better ordering and holding the Court of General Sessions, Assize and Goal Delivery, and the Court of Common Pleas, in this Province.

(Ratified June 7, 1712. Repealed by sect. 45 of the Jurymen's Act, of August 20, 1731. See last volume.)

No. 311. AN ACT FOR BUILDING A CONVENIENT STATE-HOUSE FOR THE HOLDING OF THE GENERAL ASSEMBLIES, COURTS OF JUSTICE, AND OTHER PUBLICK USES.

(The original Act not now to be found. The following is copied from *Trott's Laws of South Carolina*, p. 209.)

1500 Pounds
appropriated
for building a
State-House.

I. BE IT ENACTED by His Excellency the Palatine, and the rest of the true and absolute Lords Proprietors of Carolina, by and with the advice and consent of the rest of the Members of the General Assembly, now met at Charlestown, for the south-west part of this Province, and it is hereby enacted by the authority aforesaid, That a sum not exceeding fifteen hundred pounds, shall be paid out of the publick treasury of this Province, for building a house for holding the General Assemblies, Courts of Justice, and for other the like publick occasions; and the Receiver for the time being is hereby required to pay the same from time to time, as

it shall be demanded, by orders drawn by the commissioners herein appointed. A. D. 1712.

II. *And be it further enacted* by the authority aforesaid, That Charles Hart, Esq., Arthur Middleton, Esq., Samuel Eveleigh, Esq., Colonel William Rhett, Colonel Hugh Grange, or any three of them, shall be, and they are appointed commissioners for building the house aforesaid, and for drawing the sum of fifteen hundred pounds out of the hands of the publick Receiver, for that purpose. Names of the commissioners.

III. *Be it likewise enacted* by the authority aforesaid, That the commissioners above mentioned shall have power, and they are hereby empowered, to look for, and agree upon, what ground is most proper for building the house aforesaid, and how much is necessary for that end; and if they find no convenient ground belonging to the publick, they shall purchase as much as is necessary to answer this occasion, and the publick Receiver is hereby required to pay for the same, out of the money appointed for building the house above mentioned. Commissioners to make choice of the site for a State House.

IV. *Be it further enacted* by the authority aforesaid, That the commissioners above mentioned shall form the model of the said house, after such manner as it may most conveniently answer the end for which it is designed, that is, that it shall contain a large hall for courts of justice, and rooms for juries and the records of the court; a handsome convenient room for the Council; a large hall for the House of Commons; another for the Secretary's office; chambers for the committees, and closets for the papers belonging to the Council and House of Commons. Commissioners to form the model of the State House.

V. *Be it further enacted* by the authority aforesaid, That the commissioners above mentioned shall have power, and they are hereby empowered, to order and direct the building of the house aforesaid, as in their judgment shall be most proper and convenient, and for that purpose to contract with and employ all manner of artificers, to hire labourers or negroes from time to time, and to purchase all the materials necessary for the building. And to direct the building of the same.

VI. *Be it likewise enacted*, That if any of the said commissioners die, or make a surrender, or neglect to perform what they are required to do by this Act, the Right Honourable the Governour is hereby prayed to nominate another in his place, which person so nominated shall be a commissioner to all intents and purposes of this Act, as if he were therein expressly mentioned. In case of death or neglect of commissioners, the Governour to appoint others.

*Read three times, and ratified in open Assembly,
the seventh day of June, 1712.*

CHARLES CRAVEN,
CHARLES HART,
ARTHUR MIDDLETON,
THOMAS BROUGHTON,
RICHARD BERESFORD,
SAMUEL EVELEIGH.

A.D. 1712.

No. 312. AN ACT FOR PURCHASING LAND AND BUILDING A HOUSE FOR THE USE OF THE RIGHT HONOURABLE THE GOVERNOUR, AND THE SUCCEEDING GOVERNOURS OF THIS PROVINCE.

Preamble THAT the Governour of this Province may not hereafter be under any necessity of living at too great a distance from the seat of government, but may have a convenient place of retirement not far from Charlestown, and to the end that we the Commons House of Assembly, may give an instance of that very particular deference and respect, which is so justly due to the birth and merit of the Right Honourable Charles Craven, Esq., our present Governour;

Commissioners appointed to purchase land and build a house for the Governour. I. *Be it enacted* by his Excellency the Palatine, and the rest of the true and absolute Lords and Proprietors of Carolina, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south and west part of this Province, That Charles Hart, Esq., Colonel William Rhett, Colonel Hugh Grange, or any two of them, shall be, and they are hereby declared, nominated and appointed commissioners for purchasing a convenient tract of land, and building a dwelling house, and making other conveniencies thereon, for the use of the Right Honourable the Governour, and the succeeding Governours of this Province.

The land to be within six miles of Charlestown. II. *Be it further enacted* by the authority aforesaid, That the land above mentioned shall be within six miles of Charlestown by land, and shall not be less than an hundred acres, nor more than three hundred acres; and the commissioners aforesaid, or any two of them, shall purchase such lands of any person or persons who are willing to sell the same, and shall take livery and seizin of the land so bought, in behalf of the publick, and for the uses mentioned in this Act.

And to be for the use of the Governor and his successors forever. III. *Be it enacted* by the authority aforesaid, That the land so bought and possession taken thereof as aforesaid, together with all the improvements made thereon, shall be, and remain for ever, for the use of the Right Honourable the Governour, or the Governour for the time being, and shall be applied to no other use or purpose whatsoever.

A brick dwelling house to be built on the said land. IV. *Be it further enacted* by the authority aforesaid, That the commissioners aforesaid, or any two of them, shall have power and they are hereby impowered, to direct or order a brick dwelling house, together with other conveniencies, to be built upon the land aforesaid, after such manner as may best answer the end of this Act; and they, or any two of them, are hereby impowered to contract with all kinds of artificers, and for materials necessary for building the dwelling house, and other necessary conveniencies aforesaid.

Receiver to pay for the house and land, not over £1000. V. *Be it further enacted* by the authority aforesaid, That the publick Receiver, or the Receiver for the time being, shall pay, and he is hereby ordered and required to pay all such sums of money as he shall be ordered to pay by the commissioners aforesaid, or any two of them, either for payment of the land or for building the dwelling house, and making other conveniencies aforesaid, and for any materials necessary for the same, provided that such sums exceed not one thousand pounds in the whole.

Out of what monies to be paid. VI. *Be it likewise enacted* by the authority aforesaid, That the sum of one thousand pounds above mentioned, shall be paid out of the four thousand pounds in bills of credit appointed to be given into the hands of the publick Receiver, by an Act entituled an Act for raising the Sum of Fifty Two Thousand Pounds, &c. ratified in open Assembly the seventh

day of June, one thousand seven hundred and twelve; and one thousand pounds of the four thousand pounds aforesaid, is hereby appropriated to pay for purchasing the land and building the house and conveniences aforesaid, and for no other use or purpose whatsoever. A.D. 1712.

*Read three times and ratified in open Assembly,
this seventh day of June, Anno Dom. 1712.*

CHARLES CRAVEN,
CHARLES HART,
ARTHUR MIDDLETON,
THO. BROUGHTON,
RICHARD BERESFORD,
SAMUEL EVELEIGH.

AN ACT for regulating the Indian Trade, and making it safe and beneficial to the Publick, and for the preventing the Abuses committed by the Indian Traders amongst the Indians. No. 313.

(Ratified June 7, 1712. Repealed by sect. 11 of Act of June 30, 1716. The original of the present Act not now to be found.)

AN ACT for the better ordering and governing of Negroes and Slaves. No. 314.
(Ratified June 7, 1712. See last volume.)

AN ACT for the appointing a Ferry over the Eastern Branch of the T of Cooper River, and for the making of Causeways, Landings and Bridges, for the better conveniency of the said Ferry. No. 315.
(Ratified June 7, 1712. See last volume.)

AN ACT for building and erecting a Bridge and Causeways over the River at the Landing of Mr. William Stanyarn, and one other Bridge and Causeway from the Landing of Mr. Thomas Seabrook, to the Land of Madam Elizabeth Blake, over Wadmalaw River. No. 316.

(Ratified June 7, 1712. Repealed by Act of September 15, 1721, sect. 29. See last volume.)

A. D. 1712.

No. 317. AN ACT FOR THE MORE EFFECTUAL PREVENTING THE SPREADING OF
CONTAGIOUS DISTEMPERS.

Preamble.

WHEREAS, great numbers of the inhabitants of this Province have been destroyed by malignant, contagious diseases, brought here from Africa and other parts of America, to prevent which, as much as may be, for the time to come,

A health officer appointed.

I. *Be it enacted* by the Palatine, and the rest of the true and absolute Lords Proprietors of Carolina, together with the advice and consent of the members of the General Assembly, now met at Charlestown for the south west part of this Province, *And it is hereby enacted* by the authority of the same, That from and after the ratification of this Act that Gilbert Guttery shall be a commissioner for enquireing into the state of health of all such persons as shall be aboard any ship or vessell arriving in this Province.

His powers on board vessels.

II. *Be it further enacted* by the authority aforesaid, That the commissioner aforesaid shall have power, and he is hereby impowered and required to go on board of all ships and other tradeing vessels as soon as they come over the barr, and make strict and diligent enquiry into the state of health of that place from whence such vessel last came, as likewise of all those persons who are now on board, and into the causes of the death of such as have died on board the said ship (if any) during the voyage, and shall make such searches betwixt decks or in other places of the vessel as is necessary for finding out the truth, and shall likewise order all the men to be brought upon deck the better to be viewed and observed for the same purpose.

May send persons from vessels to the Pest house.

III. *Be it further enacted* by the authority aforesaid, That the commissioner aforesaid shall have power, and he is hereby impowered and required to administer an oath to the master and one or two men more of every ship, for discovering the state of health of those on board during the voyage, and at that present time particularly, who have dyed; or are now sick on board, and of what diseases; and it is hereby enacted by the authority aforesaid, that if the commissioner upon examination finds cause to send any person then on board ashore to the pest house, the master of the said vessell shall send them there, and shall cleanse the vessell and the cloaths and other things of those on board, after such manner as he shall be directed by the commissioner above mentioned.

In case of deaths by malignant disorders to order the vessel to lie off for 20 days.

IV. *Be it further enacted* by the authority aforesaid, That if it appear to the commissioner above mentioned, upon examination, that any person on board the said ship is sick of the plague, small pox, spotted fever, Siam distemper, Guinea fever, or any other malignant contagious disease, or that any person during the present voyage hath dyed from on board the said ship of any of the distempers aforesaid, he then shall order the master or commander of the said vessel to send all sick persons then on board, or who may after that become sick on shore, to the pest house on Sullivant's Island, and shall order the master or commander aforesaid to lie with his ship at anchor, without sending his boat ashore, except to Sullivant's Island, nor suffer any to come on board his said vessell from any place of this Province, during the space of twenty days after those orders are given, during which time the master or commander is hereby required to cause his ship and things on board to be cleansed, after such manner as by the said commissioner is directed.

V. *Be it likewise enacted* by the authority aforesaid, That if any person after the ratification of this Act shall resist the commissioner hereby appointed in performing his duty, or shall hinder him to come on board and

search, or shall refuse to make oath as by this Act is appointed, or shall not cleave his ship as is directed, or shall refuse to obey the orders of the commissioner in sending the sick ashore and hindering his boat from going on shore, or any others to come on board of him, every person offending in any of those particulars, shall for each offence so committed, forfeit and pay the sum of one hundred pounds, current money of this Province, to be recovered by him or them that shall sue for the same by bill, plaint or information, in any Court of Record of this Province.

A. D. 1712

Disobedience to the orders of the health commissioner to be punished by a fine of £100.

VI. *Be it further enacted* by the authority aforesaid, That after the ratification of this Act no pilot belonging to this Province shall suffer any person besides himself to go out of his boat on board of any ship or vessel which hath come from any port lying to the southward of the thirtieth degree of northern latitude; and if upon enquiry or observation the said pilot hears or hath the least reason to suspect that any distemper is on board the said ship, he shall wash himself and his cloaths before he come on shore; and if any more than one person be put or suffered to go on board of any vessel coming from any place to the southward of the latitude above mentioned, out of any pilot boat, or if the pilot who hath gone on board of such vessel do come on shore before he hath washed himself and his cloaths, he shall forfeit and pay the sum of twenty pounds, to be sued for and recovered as is above directed.

Duty of the pilot.

VII. *Be it further enacted* by the authority aforesaid, That if any inhabitant of this Province, or any person belonging to any ship or vessel lying or being within any part of this Province, shall after the ratification of this Act go on board of any ship or vessel whatsoever, before the commissioner above mentioned hath been on board, and hath affixed notice on some publick place in Charlestown, that those on board the said vessel were in such a state of health as they were allowed to come and bring the vessel to Charlestown, every person so offending shall forfeit and pay the sum of one hundred pounds, current money, to be recovered after the method and for the same use as is above appointed; but if such person going on board any ship or vessel as aforesaid, be unable to pay the said sum, and be not a freeholder nor reputable housekeeper, or be servants, negroes or the like inferior people, they shall be forthwith publicly whipt through the streets of Charlestown, upon information made to the Governour, or in his absence, to any Justice of the Peace, who is hereby required, after having heard and found the persons accused to have been guilty of having gone on board contrary to this Act, to issue out a warrant to the Provost Marshall to cause execution to be done against the said offenders, according to this Act, and the Provost Marshall for the time being is hereby required to execute the same accordingly.

No person to visit a vessel till the health commissioner hath been on board,

Under penalty of £100,

Or be publicly whipped.

VIII. *Be it further enacted* by the authority aforesaid, That if any master of a ship or other vessel coming into this Colony after the first day of March next ensuing the ratification of this Act, shall send his boat on shore upon any place of this Province, or shall suffer any person to come on board of him, except one pilot to conduct his vessel in, before the commissioner above mentioned hath been on board the said vessel, and there done what he is required to do by this Act, every master or commander of a ship or vessel so offending, shall for every such offence forfeit and pay the sum of fifty pounds, current money of this Province, to be recovered for the use of him or them who shall sue for the same by bill, plaint or information in any Court of Record within this Province, and wherein no essoign, protection, wager of law or stay of prosecution shall be allowed or admitted of.

No master of a vessel to send his boat ashore before the commissioner hath visited the vessel,

On penalty of £50.

A. D. 1712.

No person to leave the pest house without leave of the commissioner,

On penalty of £30.

Commissioner not to permit any of his company to go on board until he is satisfied the vessel is healthy.

Commissioner to examine and give orders about the Pest house.

Persons ordered to the Pest house are to maintain themselves.

Salary of the commissioner £40 per annum.

Commissioner to take an oath.

IX. *Be it likewise enacted* by the authority aforesaid, That from and after the time above mentioned, all negroes or other goods of what kind soever, that shall be put on shore on any place in this Province before the vessell that imported such negroes or goods be viewed by the commissioner appointed by this Act, and the master thereof complied with his orders, if he give any, such negroes or other goods shall be forfeited to him or them who shall sue for the same after the manner aforesaid.

X. *Be it further enacted* by the authority aforesaid, That if any person or persons who shall be put on shore at the pest house, on Sullivan's Island, either for sickness or suspicion of being sick of any contagious distemper, shall go from thence to any other place of this Province without a certificate first obtained from the commissioner aforesaid of his health and having cleansed himself and clothes, according to the intent of this Act, every person so offending shall forfeit and pay the sum of thirty pounds, currant money, to be sued for and recovered as is above directed, or if a negro or other inferior person offend, he shall be publicly whipt after the manner before appointed.

XI. *Be it further enacted* by the authority aforesaid, That the commissioner above mentioned shall not suffer any of his company to go on board any ship or vessel besides himself before he is well assured of the perfect health of those on board, and if he finds or suspects any sickness he shall change his cloaths and cleanse himself after the best manner he can before he returns on shore upon any place in this Province.

XII. *Be it further enacted* by the authority aforesaid, That the commissioner appointed by this Act shall enquire what is wanting about the pest house from time to time, either for agreeing with nurses, making repairs, or other conveniences for the sick, and shall apply himself to the publick Receiver, who is hereby impowered and required to order the same to be done, and to pay out for that purpose any sum not exceeding fifteen pounds a year.

XIII. *Be it further enacted* by the authority aforesaid, That those who are put into the pest house on Sullivan's Island, and are of ability to maintain themselves, shall do it at their own proper charges; that ancient, infirm, poor people, shall be maintained at the expense of the master of that vessell which brought them in; that white servants, negroes and other slaves shall be maintained at the charge of their respective masters; and that the commissioner above named shall see that provisions and all necessities be carried to the pest house aforesaid, at the market price, for the use of such as are there; and if any person who is hereby required to pay for the same do refuse or neglect so to do, the aforesaid commissioner shall always, before such sum exceed forty shillings, procure a warrant from a Justice of the Peace, and recover the same as by the Act for deciding of small and mean causes is directed.

XIV. *Be it further enacted*, That a salary of forty pounds a year shall be paid out of the publick treasury of this Province to the commissioner above named, at four equal quarterly payments, and the Receiver for the time being is hereby required to pay the same.

XV. *Be it likewise enacted* by the authority aforesaid, That before the commissioner above named, or any other who may succeed in that office, shall take upon them to execute the things prescribed by this Act, or be entitled to the salary herein appointed, he shall take an oath before the Right Honourable the Governour for the time being, faithfully to perform every thing which he is impowered and required to do by this Act.

XVI. *Be it enacted* by the authority aforesaid, That in case of the death or surrender of the commissioner afore mentioned, or for not duly per-

forming his duty, another shall be nominated and appointed by the General Assembly, which if not then sitting, by order of the Governour and Council, and the person so nominated by the Governour and Council, shall continue to the next sessions of the General Assembly, and shall have all the powers and benefits, and be under the same restrictions as the commissioner before appointed is by this Act. A. D. 1712.
Provision in case of death.

XVII. *Be it further enacted* by the authority aforesaid, That nothing in this Act shall be construed to extend to any other lawful trading port which either now is or hereafter may be appointed in this Province, besides the port of Charlestown, but that the Right Honourable the Governour, or the Governour for the time being, shall be impowered, and is hereby prayed to take care of the said ports, according to the true intent and meaning of this Act, as near as circumstances will permit, until further provision be made for that purpose by the General Assembly. This Act to be confined to the port of Charlestown, but the Governor may direct as to other ports.

XVIII. *Be it further enacted* by the authority aforesaid, That all actions brought upon any part of this Act shall be prosecuted within two years after the offence committed, or otherwise such actions shall be esteemed, and are hereby declared to be vexatious and illegal.

XIX. *Be it further enacted* by the authority aforesaid, That this Act and every part thereof shall remaine in force for two years after the ratification thereof, and after that to the end of the first session of the next General Assembly.

*Read three times, and ratified in open Assembly,
the 7th day of June, Anno Dom. 1712.*

CHARLES CRAVEN,
CHARLES HART,
ARTHUR MIDDLETON,
THO. BROUGHTON,
RICH. BERESFORD,
SAM. EVELEIGH.

NOTE.—Repealed by Sec. 12 of Act of Sep. 1, 1721, on the same subject.

AN ACT FOR THE BETTER STRENGTHENING OF THIS PROVINCE BY IN- No. 318.
CREASING THE NUMBERS OF THE INHABITANTS THEREOF, AND FOR
ENCOURAGING THE MAKING POTASH, BUILDING SAW-MILLS AND OTHER
MECHANICK ENGINES.

WHEREAS, nothing contributes more to the safety and flourishing estate of any country than the multitude of people, for the further increase of whom in this Province, Preamble.

I. *Be it enacted* by His Excellency the Pallatine, and the rest of the true and absolute Lords Proprietors of Carolina, by and with the advice and consent of the rest of the members of the Generall Assembly, now met at Charlestown, for the south-west part of this Province, and it is hereby enacted by the authority of the same, That the publick Receiver for the time being shall, during the term of four years after the ratifica- The Receiver shall pay £14 to the importer of each male servant.
tion of this Act, pay out of the publick treasury of this Province, the sum of fourteen pounds, currant money, to the owners or importers of each

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healthy male British servant, betwixt the age of twelve and thirty years, as soon as the said servant or servants are assigned over into his hands by him or them to whom they belong.

Receiver to dispose of said servants for ready money or bond.

II. *Be it further enacted* by the authority aforesaid, That the publick Receiver shall dispose of the said servants to the inhabitants of this Province as are willing to take the same, as much to the publick advantage as he can, either for money paid in hand, or for bonds payable in four months, or after that to run on interest after the rate of ten per cent. per annum for each year that the said bond shall remain unpaid.

The bond to be taken in the name of the Receiver.

III. *Be it enacted*, That the said bonds shall be taken in the name of the publick Receiver, for the use of the publick, and shall be recovered, sued for, and for the same use in any Court of Record within this Province, and the defendant to pay cost of suit.

Servants to be set free if not disposed of, taking their own bonds.

IV. *Be it further enacted*, That in case it so happens that there remains on any occasion some servants whom the Receiver can neither dispose of in any reasonable time, nor imploy to the benefit of the publick, he shall with the approbation of Mr. William Gibbon, Mr. Andrew Allen and Mr. Benjamin Godin, or any two of them, then set these servants free, taking their own bonds, or as good security as he can get, for the payment of that sum or sums of money as the publick has expended in their behalf, and payable in such time as the Receiver, or any two of the persons aforesaid, in their discretion shall think fit, and such bonds shall be taken, sued for, and recovered after the manner aforesaid.

The person so giving bond to be free.

V. *Be it likewise enacted* by the authority aforesaid, That every person upon receiving a discharge from the publick Receiver and the commissioners aforesaid, or any two of them, upon his giving bond as aforesaid, shall remain free from any claim of service whatsoever, as if he had come free into this Province.

The importer shall make oath that the servants imported were not criminals.

VI. *And be it further enacted* by the authority aforesaid, That every master or importer of white servants into this colony, claiming from the publick Receiver the benefit of this Act, shall take an oath before the publick Receiver, that to the best knowledge he could possibly procure by such methods as he could with conveniency make use of for finding out the truth, none of the said servants, for importing of whom he claims the benefit of this Act, were ever in any prison or gaol, or publicly stigmatized for any matter criminal by the laws of Great Britain; or if the importers, master or mate of the ship cannot themselves take this oath, then they shall produce a certificate signed by some legal magistrate of Great Britain, declaring that such oath hath been taken before him, both by the servant himself and some other person who had made enquiry into his circumstances.

Penalty for bringing over criminals as servants.

VII. *Be it further enacted*, That if any importer of servants or masters of ships or the like shall endeavour by indirect means to elude the true intent and meaning of this Act by bringing over criminals out of Newgate, or any other gaol of Great Britain, he shall forfeit and pay the sum of twenty five pounds, currant money of this Province, for each person so brought over and sold, for the use of the publick, and the Receiver is hereby required and empowered to sue for the same in the Court of Common Pleas in Charlestown, and wherein no essoign, protection, or wager of law or stay of prosecution be allowed and admitted of.

How long such servants shall serve.

VIII. *Be it further enacted* by the authority aforesaid, That every person receiving any white servants by virtue of this Act shall be vested with the same dominion and power over him and them as masters are over any other white servants, by the laws of this colony; and the said servants shall render such obedience, and be under such restrictions and rules as white servants have been and now are in this Province; provided always,

that no servant of the age of sixteen years and upwards shall serve above four years after his arrival in this Colony, nor those under sixteen years any longer than they are twenty one years of age, and the time of their age to be determined by the commissioners aforesaid, or any two of them.

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IX. *Be it further enacted*, That nothing contained in this Act shall divest the owners or importers of their property over their servants whom they import, or oblige them to assigne them to the publick Receiver otherwise than by their own voluntary consent, in case they cannot dispose of them to better advantage.

The importers of servants may dispose of them themselves.

X. *Be it further enacted* by the authority aforesaid, That the sum of three hundred pounds in bills of credit, shall by the commissioners, or any five of them, be paid out of the sum of fifty-two thousand pounds, in bills of credit, appointed to be made, pursuant to an Act intituled an Act for raising the Sum of Fifty-two Thousand Pounds; &c., which said sum of three hundred pounds, together with the sum arising from the sale of the white servants aforesaid, by the publick Receiver as aforesaid, for the term and time of four years as aforesaid, shall be applied and appropriated for the payment of the white servants, to be purchased and paid for by the publick as aforesaid.

Appropriation.

XI. For encouragement to introduce into this Colony the art of making potash, *Be it enacted* by the authority aforesaid, That any person now residing in this Province, or who shall hereafter come into the same, shall within ten years after the ratification of this Act instruct the inhabitants of this Colony in making potash (that is such as are willing to undertake the same) in such manner that the said commodity be made fit for the market in Great Britain, that such persons shall receive forty shillings per tun out of the publick treasury of this Province for the first five hundred tuns that shall be entered or shipped on board any ship or vessell sailing out of any ports in this part of this Province, and the Receiver for the time being is hereby required to pay forty shillings aforesaid, for every tun of potash that is shipped on board any vessell sailing out of this Colony, and for which the person claiming the same shall produce a certificate signed by one or more Justices of the Peace, testifying that either the master of the vessel or person freighting the said potash have made oath that they have shipped the said commodities on board for potash, that they have searched and viewed it, and that to the best of their judgment and understanding, it is good merchantable potash. To the intent such person who first undertakes to make such commodity may not be defrauded of the benefit intended to him by this Act, he shall, as soon as any part of it is made and shipped on board any vessell, produce good certificate from one or more Justices of the Peace, declaring that oath hath been made before them of his having made or instructed others to make two or three tuns of potash, now shipped on board such ship or vessell, which certificate he shall produce before the Right Honourable the Governour and Council for the time being, and get the same entered into the council book, as an evidence of his having been the first person who performed the service here mentioned, and claimed the benefit of this Act.

Benefit given to any person for instruction of making potash.

XII. For the further encouragement of those who shall first undertake to make potash, *Be it enacted* by the authority aforesaid, That the sum of fifty pounds shall be paid to each of the two persons who first set up works for that purpose, and the publick Receiver is hereby required to pay the same upon either or both of the said persons producing a certificate attested by some Justice of the Peace, that the person claiming the said fifty pounds hath made good progress in erecting potash work, at least

£50 to be paid to the person that will first set up a potash work.

A. D. 1712. hath made houses to preserve his ashes, and set up large pans and furnaces.

Benefit to any person that shall first make and erect a saw-mill.

XIII. In this Province the numbers of the inhabitants being few for so great extent of land, the erecting of mills of all kinds and other mechanick engines will greatly improve the country itself, and its trade and navigation; *Be it therefore enacted* by the authority aforesaid, That whatever person or persons shall, after the ratification of this Act, erect a mill to saw with the wind or water, so as to bring the same to complete perfection, as in Holland or in other countrys, he or they shall have the privilege of erecting wind or water saw-mills in this part of this Province, exclusive of all others, for the term of eight years after the first saw mill begins to work; and if any other person or persons erect or cause to be erected in this Colony, any wind or water saw-mill, within the term of eight years after the time aforesaid, without the consent and license of those who erect the first, he shall forfeit and pay the sum of one thousand pounds, to be recovered for the use of those to whom this privilege, exclusive of others, does belong, by plaint or information in the Court of Common Pleas in Charlestown, wherein no essoign, protection, wager of law or stay of prosecution shall be allowed or admitted of.

Benefit for invention of a wind-mill or water-mill for grinding wheat or barley.

XIV. For advancing a coasting trade to the northern parts of this Province, and the encouragement of sowing wheat and barley in places most agreeable for the growth of those grains, and by that means supplying the inhabitants of this Colony and creating a foreign trade with flour, *Be it enacted*, That what person or persons soever shall first after the ratification of this Act erect a wind or water mill for grinding wheat, barley and Indian corn, shall from the time of finishing the same, enjoy the same privilege for the space of five years, for erecting those kind of mills, as is given in the foregoing paragraph to those who first erect saw-mills, together with the same forfeiture and penalties against any who shall within the space of five years erect any other wind mill or water mill for grinding wheat, without their consent.

Reward for the improvement of rice-mills.

XV. *Be it further enacted* by the authority aforesaid, That any person who shall before the first day of January next after the ratification of this Act, come unto Richard Beresford, Arthur Middleton, Esq., Capt. Robert Fenwick, Capt. William Bull and Mr. James Cochran, or any three of them, and make it appeare by a mathematical demonstration, that the mills now used for beating rice are improvable, and not only make the demonstration, but build a mill or mills so improved for himself or some other; after the mill or mills are so made, the persons above named are hereby empowered to draw a note upon the publick Receiver for any sums not exceeding one hundred pounds, payable to him who hath made this improvement, as they in their discretion shall judge to be more or less useful, that is, if the same mechanick power and force, which after the methods now in use, beats any quantity of rice in a certain time, it will be so altered that in the same time it will beat one half, a third, a fourth or the like more, in such cases a proportionable reward shall be paid after the manner aforesaid, and the publick Receiver is hereby required to pay the same accordingly.

Benefit for the invention of tobacco pipes.

XVI. *Be it further enacted* by the authority aforesaid, That any person in this Colony who now hath or first shall erect a work for making tobacco pipes, and shall bring some of the said pipes to the Governour and Council for the time being, and receive a certificate of his being the first who undertook setting up a tobacco pipe work, such person or persons having the said certificate shall be entituled to the same advantage, exclusive of others, and the same damages from those who undertake setting up

a tobacco pipe work without his license or consent, and for the same term of years as those are who shall first erect a saw-mill, in pursuance of the encouragement given by this Act. A. D. 1712.

*Read three times, and ratified in open Assembly,
the 7th day of June, Anno Dom. 1712.*

CHARLES CRAVEN,
CHARLES HART,
ARTHUR MIDDLETON,
THO. BROUGHTON,
RICHARD BERESFORD,
SAM. EVELEIGH.

NOTE.—See No. 167, 263.

(The two following Acts—Nos. 327, 328 of Trott's collection—passed in the June session of this year, are not now to be found; nor can I assign to them any numbers on sufficient authority.)

AN ADDITIONAL ACT to an Additional Act to an Act entitled an Act for repairing and expeditious finishing of the Fortifications of Charlestown, and Johnson's Fort, and for putting the said Fortifications in repair and good order, and sustaining the same; and for building a Publick Magazine in Charlestown, and for appointing a Powder Receiver and Gunner.

(Ratified June 7, 1712. Continued by Act of December 8, 1713. Expired.)

AN ACT for Raising the Sum of Fifty-two Thousand Pounds, by stamping and establishing new Bills of Credit and putting the same out to interest, in order to call in and sink the former Bills of Credit, and thereby give a farther encouragement to Trade and Commerce.

(Ratified June 7, 1712. Expired.)

AN ACT FOR FOUNDING AND ERECTING OF A FREE SCHOOL IN CHARLESTOWN, FOR THE USE OF THE INHABITANTS OF THIS PROVINCE OF SOUTH CAROLINA. No. 319.

WHEREAS, it is necessary that a free school be erected for the instruction of the youth of this Province in Grammar, and other arts and sciences and useful learning, and also in the principles of Christian religion; and whereas several charitable and well disposed christians, by their last wills and testaments, have given several sums of money for the founding of a free school, but no person yet is authorized to take the charge and care of erecting a free school, according to the intent of the donors, and to receive the said legacies if tendered, nor to demand the same in case of refusal to pay the same; so that for want of some person or persons, or body politick and corporate, proper for the lodging the said legacies therein, the same are not applied according to the pious and charitable intent of the donors;

Preamble.

A.D. 1712.

Names of the
Commissioners
of this Act.

Their powers.

Commissioners
to meet yearly
and choose
officers.

I. *Be it therefore enacted* by the most noble Prince, Henry Duke of Beaufort, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, and by the authority of the same, That the Honourable Charles Craven, Esq., Governour, Charles Hart, Esq., Thomas Broughton, Nicholas Trott, Arthur Middleton, and Richard Beresford, Esqs., William Rhett, Esq., the Reverend Mr. Gideon Johnston, the Reverend Dr. Francis Lejau, Mr. Robert Maul, Mr. Ralph Izard, Landgrave Joseph Morton, Colonel George Logan, Colonel Alexander Parris, Colonel Hugh Grange, and Mr. William Gibbon, or any seven of them, or their successors to be elected in manner as is hereafter directed, be, and shall forever hereafter be one body politick and corporate in deed and in name, by the name of the Commissioners for founding, erecting, governing, ordering and visiting a School for the use of the inhabitants of South Carolina; and that they and their successors by the same name, by the authority aforesaid, be fully made, ordained, constituted and declared one body politick and corporate, in deed and in name, and that by the same name they and their successors shall and may have perpetual succession, and that they and their successors by that name shall and may forever hereafter be persons able and capable in law to purchase, have, take, receive and enjoy, to them and their successors, lands, messuages, tenements, rents, liberties, privileges, jurisdictions, franchises, and other hereditaments, of whatsoever nature, kind, quality or value they be, in fee, and in perpetuity, and also estates for lives and for years, and all other manner of goods, chattels and things whatsoever, of what name, nature, quality or value soever they be, for the better support and maintenance of masters or teachers for the said school, and also for the erecting of school houses, and convenient dwelling houses for the accommodation of the said several school masters and teachers; and that by the name aforesaid they shall and may be able to plead and be impleaded, answer and be answered unto, and to defend and be defended, in all courts and places whatsoever, and before whatsoever judge and judges, justice or justices, or other officer or officers belonging to this Province, in all and singular actions, complaints, pleas, matters and demands, of what kind, nature or quality soever they be; and to act and do all other matters and things, in as ample manner and form as any other the inhabitants of this Province being persons able and capable in law, or any other body corporate or politick by the laws of England can or may have, purchase, receive, possess, take, enjoy, grant, sell, lett, demise, plead and be impleaded, answer and be answered unto, and to defend and be defended, do, permit and execute; and that the said commissioners and their successors forever hereafter, shall and may have a common seal to serve for the common businesses of them and their successors, to change, break, alter and make new the said seal, from time to time and at their pleasure, as they shall think best.

II. And for the better execution of the purposes aforesaid, *Be it further enacted* by the authority aforesaid, That the said commissioners and their successors forever, shall and may on the third Wednesday in March, meet at some convenient place to be appointed by the president of the said commissioners, between the hours of five and eight of the evening of the said day, and that they, or the major part of such of them that shall then be present, shall choose one president and vice president, and such other officers, ministers and servants, as shall be thought convenient to serve in the said offices, for the year ensuing; and that the said president, and all officers then elected, shall before they act in their respective offices, take

an oath, to be to them administered by the president, or in his absence by one of the vice presidents of the year preceeding, who are hereby authorized to administer the same, for the faithful and due execution of their respective offices and places during the said year, and until discharged of the same. A. D. 1772.

III. *And be it further enacted* by the authority aforesaid, That the first president of said commissioners shall be the Honourable Charles Craven, Esq., Governour, and that the said president shall within forty days after the ratification of this Act, cause summons to be issued to the several commissioners herein before particularly mentioned, to meet on such a day, and at such a place as he shall appoint, and that they, or the major part of such of them as shall then be present, provided the number present with the said Governour are not less than seven, shall proceed to the election of one or more vice president or vice presidents, one treasurer, two or more auditors, one secretary, and such other officers, ministers, and servants as to them shall seem meet, which said officers, from the time of their election into their respective offices, shall continue therein until the third Wednesday in March, which will be in the year of our Lord one thousand seven hundred and thirteen, according to the supputation of the Church of England, and from thence forward until others shall be chosen in their places, in manner aforesaid; and upon such first day of the meeting of the said president and the members, in order to elect a vice president or vice presidents, and other officers as before directed, that the president shall take an oath for the faithful and due discharge of his trust, to be administered unto him by the Chief Justice of this Province, if present, or in case of his absence by any two of the said commissioners, who are hereby impowered to administer the same accordingly, and that each of the other officers then elected, shall take an oath, to be to them administered by the president, for the faithful and due execution of their respective offices and places, until discharged of the same. Hon. Charles Craven first president.

IV. *And be it further enacted* by the authority aforesaid, That if it shall happen that any of the persons at any time chosen into any of the said offices shall dye, resign, or on any account be removed from such office, at any time between the said yearly days of election, that in such case it shall be lawful for the surviving and continuing president, or any one of the vice presidents, to issue summons to the several members of the body corporate to meet at the usual place of the annual meeting of the said commissioners, at such time as shall be specified in the said summons; and such members as shall meet upon such summons, provided not less than seven in the whole or the major part of them, shall and may choose an officer or officers in the room or place of such person or persons so dead or removed, as to them shall seem meet. In case of death or resignation of the officers, commissioners to choose new ones.

V. *And be it further enacted* by the authority aforesaid, That in case of the death, resignation, or removal from this Province, of any of the said commissioners, that then it shall be lawful for the President, or any of the vice presidents, to issue summons to the several surviving commissioners, to meet at the usual place of the annual meeting of the said commissioners, at such time as shall be specified in the said summons, and that such members as shall meet upon any summons, provided not less than seven in the whole or the major part of them, shall or may choose a commissioner or commissioners in the room or place of such person or persons so dead or removed, as to them shall seem meet. The remaining Commissioners to elect others in case of vacancy.

VI. *And be it further enacted* by the authority aforesaid, That it shall and may be lawful for the said commissioners and their successors to meet at some convenient place to be appointed for that purpose, on the third Commissioners to meet twice a year.

A. D. 1712.

Wednesday in March and October, and oftener if occasion requires, upon publick summons given five days before, then and there to transact the business of the said commissioners, and to put in force and to execute the several powers given to them by this Act; and no act done in any assembly of the said commissioners shall be effectual and valid, unless the president, or some one of the vice presidents, and six members of the said commissioners, at least, be present, and the major part consenting thereunto.

Penalty for neglect.

VII. *And be it further enacted*, That if any of the said commissioners shall neglect to attend, being duly summoned as in the said Act is directed, such commissioner or commissioners shall forfeit ten shilings for every day that the commissioners shall meet, to transact the business of this Act, unless he or they so neglecting to attend, shall give the commissioners, or the major part of them, such reasons as to them shall be satisfactory; and the forfeitures arising by the neglect of the said commissioners to attend, shall be disposed of as the majority of the commissioners then met shall order and appoint.

All gifts and legacies to be appropriated to a free school.

VIII. *And be it further enacted* by the authority aforesaid, That all gifts or legacies formerly given for the use of the free school of this Province, by any person or persons whatsoever, are hereby appropriated for the school intended to be founded and erected, pursuant to the several powers granted to the said commissioners by this Act; and the said commissioners and their lawful successors are hereby authorized and impowered to demand and sue for the same, in the courts of this Province, by all such lawful ways and means for the recovery and obtaining of the same, as they might or could do if the said gifts or legacies had been given to them expressly by name; and a receipt signed by such person or persons as shall be lawfully chosen and appointed treasurer to the said commissioners, shall be a sufficient discharge to such executor or executors as shall pay such legacies; and the monies so received by such treasurer, shall be disposed of by order of the said commissioners and their successors, towards the purchasing of lands, and the erecting of a school house and dwelling houses for the use of the several masters and professors.

Commissioners to take up land and build houses for the teachers.

IX. *And be it further enacted* by the authority aforesaid, That the said commissioners and their successors shall have power, and they are hereby authorized and impowered, to take up by grant from the Lords Proprietors, or purchase, have, take and receive from any other person or persons whatsoever, so much land as they shall think necessary and convenient for the several masters, teachers or professors, and shall also direct the building a school house upon the same, and such dwelling houses, and convenient out houses and buildings, for the accommodation of the several masters or teachers, and shall also nominate and appoint one or more persons to be supervisor or supervisors of the said buildings; the said several buildings to be in such places on the said land so taken up, or purchased, or received as aforesaid, and of such dimensions, and of such materials, as the said commissioners shall order and direct.

John Douglas to be first master of the school.

X. *And be it further enacted* by the authority aforesaid, That Mr. John Douglas shall be and is hereby declared to be master of the said school, by the name and stile of Preceptor or Teacher of Grammar, and other the Arts and Sciences to be taught in the Free School at Charlestown, for the Province of South Carolina.

Provision in case of vacancy.

XI. *And be it further enacted* by the authority aforesaid, That upon the death, departure out of this Province, resignation or removal, of the said John Douglas, that the said commissioners and their successors shall have full power and lawful authority to nominate and appoint another fit

person to be master of the said school, by the same name and stile; and so from time to time, when and as often as the said place of master of the said school, by death, resignation, deprivation, or otherwise, shall become void, shall nominate and appoint a fit person to succeed, to be the master of the said school.

A. D. 1713.

XII. *And be it further enacted* by the authority aforesaid, That the person to be master of the said school shall be of the religion of the Church of England, and conform to the same, and shall be capable to teach the learned languages, that is to say, Latin and Greek tongues, and to catechise and instruct the youth in the principles of the Christian religion, as professed in the Church of England.

Master of the School to be of the Church of England, and to understand Latin and Greek.

XIII. *And be it further enacted* by the authority aforesaid, That the said commissioners and their successors shall have power and authority, under their common seal, to set down and prescribe such orders, rules, statutes and ordinances for the order, rule and good government of the said school, and for the masters, teachers, ushers and scholars thereof, as to them and their successors shall seem meet and convenient, and that the same orders, rules, statutes and ordinances so by them made and set down, shall be and stand in full force and virtue in law, so always that the same be reasonable, and not repugnant nor contrary to the established laws of this Province. And the said commissioners for the time being, shall have full power and authority to visit the said school, and to order, reform and redress all disorders and abuses in and touching the government of the same, and further to censure, suspend and deprive any of the masters, teachers or professors of the said school, or the usher or ushers thereof, for the time being, as to them shall seem just, fit and convenient.

Commissioners to prescribe rules for the government of the school.

XIV. And for an encouragement to all charitable and well-disposed persons to contribute liberally towards the erecting and founding of the said school or academy, *Be it further enacted* by the authority aforesaid, That any person or persons that within seven years after the ratification of this Act, will contribute twenty pounds, current money of this Province, towards the erecting and founding of the said school, and will pay the same to the treasurer appointed by the said commissioners, that he or they shall have power to nominate any one person to be taught free in the said school for the space of five years after such gift, provided the person nominated by him or them shall so long live, but in case of the death of the person so nominated to be taught free, then that privilege to cease, and not another person to be nominated in his room or place; and so proportionably for so many twenty pounds as any person will give, so many persons to be taught free for five years, as aforesaid: *Provided* the number of scholars so in the whole to be taught free, do not exceed the number of twenty.

Any person giving 20l. may nominate one scholar to be taught free for five years.

XV. *And be it further enacted* by the authority aforesaid, That the school-master shall have, hold, occupy, possess and enjoy to him and his lawful successors, all such land as shall, pursuant to this Act, be taken up, purchased, had or received for the use of a school-master of the said school, and the school house, and dwelling houses, and the out-houses and other buildings upon the same; and also, as a further encouragement unto him, shall have and receive out of the publick treasury of this Province, the full sum of one hundred pounds per annum, to be paid him half-yearly, and the publick Receiver for the time being is hereby authorized, required and commanded punctually to pay the same out of the publick treasury.

Privileges and salary of the master.

XVI. *And be it further enacted* by the authority aforesaid, That in consideration of the said school-master being allowed the use of the lands, dwelling house and other buildings upon the same land, and also the yearly salary of one hundred pounds per annum, he shall teach freely, and with-

Twelve scholars to be taught free.

A. D. 1712.

out any manner of fee or reward whatsoever, over and above the number of free scholars to be appointed by each person contributing twenty pounds as aforesaid, any number of scholars not exceeding twelve, the same scholars to be taught free, to be nominated and appointed by the above named commissioners and their lawful successors.

£4 per year
for each scholar
not taught free.

XVII. *And be it further enacted* by the authority aforesaid, That for every scholar the said master shall teach, besides those who by this Act are appointed to be taught free, he shall be allowed at the rate of four pounds per annum, current money of this Province, to be paid him by the parent or guardian of such scholar.

If more pupils
than the master
can manage,
an usher to be
appointed.

XVIII. *And be it further enacted* by the authority aforesaid, That in case the said school master shall have more scholars in his said school than one man can well manage, then and in such case the said commissioners, or the major part of them that shall meet, shall order and appoint a fit person to be usher of the said school, and for his encouragement shall be allowed by order of the said commissioners and their successors, not exceeding fifty pounds per annum, to be paid him half-yearly out of the publick treasury of this Province, and the publick Receiver for the time being is hereby authorized, required and commanded punctually to pay the same out of the publick treasury of this Province, as is hereafter directed by this Act; and over and above that, shall be allowed for every scholar that is under his charge (excepting those that by this Act are appointed to be taught free) at the rate of thirty shillings per annum, which sum of thirty shillings shall be allowed out of the four pounds per annum before directed to be paid for each scholar that is not taught free; and in case any dispute or difference shall arise between the master and the usher, what scholars shall belong to the more immediate charge of the master and which to the usher, that the same shall be decided by the commissioners and their successors.

A writing-
master to be
appointed.

XIX. And because it is necessary to give encouragement to a fit person that will undertake to teach the youth of this Province to write, and also the principles of vulgar arithmetick, and merchants' accompts; *Be it further enacted* by the authority aforesaid, That a fit person shall be nominated and appointed by the said commissioners, to teach writing, arithmetick, and merchants' accompts, and also the art of navigation and surveying, and other useful and practical parts of the mathematicks, and for his encouragement shall be allowed by order of the said commissioners and their successors, not exceeding fifty pounds per annum, to be paid him half-yearly, out of the publick treasury of this Province, and the publick Receiver for the time being is hereby authorized, required and commanded, punctually to pay the same out of the publick treasury of this Province, as is hereafter directed by this Act; and in consideration of the said yearly salary to be paid him, he shall be obliged to teach free all such persons as by this Act are appointed to have their learning free and for other scholars that are not to be taught free, he shall be allowed for teaching them writing, at the rate of thirty shillings per annum, if writing and arithmetick, forty shillings, if merchants accounts, fifty shillings per annum, and if the mathematicks, at such rate as he shall agree with the several parents and guardians of the said children, not exceeding six pounds per annum.

How the
Receiver is to
pay the public
salaries.

XX. *And be it further enacted* by the authority aforesaid, That as to the publick salaries appointed by this Act to be paid out of the publick treasury of this Province, the publick Receiver for the time being is hereby authorized, required and commanded to pay the same out of the remaining part of the monies received for the duties upon skins and furs, after payment of the ministers' salaries appointed by the Act of Assembly

of this Province commonly called the Church Act, and also of the parochial charges, and all other charges and sums of money that are appointed to be paid by one Act of Assembly of this Province, entitled a further Additional Act to an Act entitled an Act for the Establishment of Religious Worship in this Province, according to the Church of England, and for erecting of Churches for the Publick Worship of God, and also for the maintenance of Ministers, and the building convenient houses for them, ratified in open Assembly the eighth day of April, one thousand seven hundred and ten; and also all the monies appointed to be paid by one other Act of Assembly of this Province, entitled an Additional Act to the several Acts relating to the Establishment of Religious Worship in this Province, and now in force in the same, and also to the Act for securing the Provincial Library at Charlestown, in Carolina, ratified in open Assembly the seventh day of June, one thousand seven hundred and twelve; and the remaining part of the monies received upon the duties upon skins and furs, after the payments above mentioned being deducted, is hereby appropriated to the payments of the several salaries appointed by this Act to be paid, and the publick Receiver for the time being is hereby strictly charged and required to reserve and pay the same accordingly, under the same penalties and forfeitures which are to be incurred by the Act entitled an Act to continue an Act for laying an imposition on Furs, &c. and for Appropriating the same, for misapplying of monies thereby raised, any thing in the same Act to the contrary hereof in any wise notwithstanding. And in case the remaining part of the monies received out of the said duties upon skins and furs, after the deduction aforesaid, shall not be sufficient to discharge the several salaries appointed to be paid by this Act, that in such case, what is wanting to discharge the same, the said publick Receiver for the time being is hereby strictly charged and required to pay what is wanting to discharge the same, out of the publick treasury.

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XXI. And as a further and more general encouragement for the instructing of the youth of this Province in useful and necessary learning; *Be it enacted* by the authority aforesaid, That as soon as a school master is settled in any other, or all the rest of the parishes of this Province, and approved by the vestry of such parish or parishes, such school master so approved, from time to time, shall receive the sum of ten pounds per annum, out of the publick treasury, by quarterly payments, and the publick Receiver is hereby required to pay the same.

Schoolmasters
in every parish
to have £10
per annum.

XXII. *And be it further enacted*, That the vestry of each parish in this Province shall have power, and they are hereby impowered, to appoint a place where the parish school shall be built, and shall draw upon the publick Receiver towards building the same, the sum of twelve pounds current money, and the publick Receiver is hereby required to pay the same accordingly.

The vestry of
each parish to
choose a place
for a school-
house to be
built.

XXIII. *And be it further enacted* by the authority aforesaid, That if any action, claim, suit or information shall be commenced or prosecuted against any person or persons, for what he or they shall do in pursuance or execution of this Act, such person or persons so sued may plead the general issue, not guilty, and upon issue joyned, give this Act and the special matter in evidence, and if the plaintiff or prosecutor shall become non-suit, or suffer discontinuance, or if a verdict pass against him, the defendant or defendants shall recover his or their treble costs, for which he or they shall have the like remedy as in any case when costs by law are given to the defendant.

Persons sued
may plead the
general issue.

XXIV. *And be it further enacted* by the authority aforesaid, That one Act of Assembly of this Province, entitled an Act for founding and

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Two former
Acts repealed.

erecting of a Free School, for the use of the inhabitants of South Carolina, ratified in open Assembly the eighth day of April, Anno Domini one thousand seven hundred and ten, and one other Act entituled an Act for the Encouragement of Learning, ratified in open Assembly the seventh day of June, Anno Domini one thousand seven hundred and twelve, be repealed; and it is hereby enacted and declared, that the said Acts, and every clause, article, sentence, word, matter or thing contained in the same, from henceforth shall be repealed, annulled, revoked and for ever made void, any thing in the said Acts to the contrary whatsoever in any wise notwithstanding.

*Read three times, and ratified, in open Assembly,
the twelfth day of December, 1712.*

CHARLES CRAVEN,
CHARLES HART,
ARTHUR MIDDLETON,
THO. BROUGHTON,
RALPH IZARD,
SAM. EVELEIGH.

No. 320. AN ACT FOR THE BETTER OBSERVATION OF THE LORD'S DAY, COMMONLY CALLED SUNDAY.

Preamble.

WHEREAS there is nothing more acceptable to God than the true and sincere service and worship of him, according to his holy will, and that the holy keeping of the Lord's Day is a principle part of the true service of God, which in many places of this Province is so much profaned and neglected by disorderly persons;

All persons to
observe the
Lord's Day.

I. *Be it therefore enacted* by the most noble Prince, Henry Duke of Beaufort, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, and by the authority of the same, That all and every person and persons whatsoever, shall on every Lord's Day apply themselves to the observation of the same, by exercising themselves thereon in the duties of piety and true religion, publicly and privately; and having no reasonable or lawful excuse, on every Lord's Day shall resort to their parish church, or some other parish church, or some meeting or assembly of religious worship, tolerated and allowed by the laws of this Province, and shall there abide orderly and soberly during the time of prayer and preaching, on pain and forfeiture for every neglect the sum of five shillings current money of this Province.

And to abstain
from labour on
that day.

II. *And be it further enacted* by the authority aforesaid, That no tradesman, artificer, workman, labourer, or other person whatsoever, shall do or exercise any worldly labour, business or work of their ordinary callings upon the Lord's Day, or any part thereof (works of necessity or charity only excepted;) and that every person being of the age of fifteen years or upwards, offending in the premises, shall for every such offence forfeit the sum of five shillings.

Penalty for
selling goods
on Sunday.

III. And that no person or persons whatsoever shall publicly cry, shew forth, or expose to sale any wares, merchandizes, fruit, herbs, goods or chattles whatsoever, upon the Lord's Day, or any part thereof, upon

pain that every person so offending shall forfeit the same goods so cried, or shewed forth, or exposed to sale. A. D. 1712.

IV. *And be it further enacted* by the authority aforesaid, That no drover, waggoner, butcher, higgler, they or any of their servants, or any other traveller or person whatsoever, shall travel on the Lord's Day by land, neither shall any person or persons whatsoever travel on the Lord's Day by water, in any barge, lighter, wherry, boat, canoe or periauger, excepting it be to go to the place of religious worship and to return again, or to visit or relieve any sick person, or unless the person or persons were belated the night before, and then to travel no further than to some convenient inn or place of shelter for that day, or upon some extraordinary occasion, for which he, she or they shall be allowed to travel under the hand of some Justice of Peace of this Province. No person to travel on the Lord's Day.

V. *And be it further enacted* by the authority aforesaid, That no publick sports or pastimes, as bear-baiting, bull-baiting, foot-ball playing, horse-racing, enterludes or common plays, or other unlawfull games, exercises, sports or pastimes whatsoever, shall be used on the Lord's Day by any person or persons whatsoever, and that every person or persons offending in any of the premises, shall forfeit for every offence the sum of five shillings current money. No sports or pastimes to be allowed on the Lord's Day.

VI. *And be it further enacted* by the authority aforesaid, That no vintner, innholder, or other person keeping any publick house of entertainment, shall entertain or suffer any person or persons whatsoever, excepting strangers or lodgers in such houses, to abide or remain in their houses or out-houses, yards, or orchard or fields, drinking or idly spending their time on the Lord's Day, upon the pains and penalties of five shillings for every person offending, payable by themselves, respectively, that shall be found so drinking or abiding in any such publick house or dependancies thereof as aforesaid, and the like sum of five shillings to be paid by the keeper of such house for every person entertained by them. No publick house to entertain any guests on the Lord's Day, except lodgers and strangers.

VII. *And for the better keeping of good orders on the Lord's Day,* *Be it further enacted* by the authority aforesaid, That the church-wardens and constables of Charlestown, or any one or more of them, shall once in the forenoon and once in the afternoon, in the time of divine service, walk through the said town, to observe, suppress and apprehend all offences whatsoever, contrary to the true intent and meaning of this Act; and they shall have power, and are hereby authorized and empowered, to enter into any publick house, or suspected houses, to search for any such offenders, and in case they are denied entrance, shall have power, and are hereby authorized and empowered, to break open, or cause to be broke open, any of the doors of the said houses, and enter therein; and all persons whatsoever are strictly commanded and required to be aiding and assisting to any constables or other officers in their execution of this Act, on the penalty of ten shillings current money for every neglect. Duty of the constables and churchwardens of Charlestown.

VIII. *And be it further enacted* by the authority aforesaid, That if any master, mistress or overseer shall command, and cause and encourage any servant, slave or slaves, to work on the Lord's Day, he, she or they shall forfeit for every such offence the sum of five shillings current money. No servant to work on the Lord's Day.

IX. *And be it further enacted* by the authority aforesaid, That for the better execution of all and every the foregoing orders, every Justice of the Peace within his county shall have power and authority to convene before him any person or persons whatsoever, who shall offend in any of the particulars before mentioned, and upon his own view, or confession of the Penalty for offences against this Act.

A. D. 1712.

party, or proof of any one or more witnesses, upon oath, which the said Justices are by this Act authorized to administer, the said Justice or Justices shall give a warrant under his or their hands and seals, to the constables or churchwardens, or either or any of them, of the parish or parishes where such offence shall be committed, to seize the said goods cried, shewed forth, or put to sale as aforesaid, and to sell the same; and as to the other penalties and forfeitures, to impose the fine and penalty for the same, and to levy the said forfeitures and penalties by way of distress and sale of the goods of every such offender, returning the overplus (if any be) after reasonable charges allowed for the distress and sale; and in default of such distress, or in case of insufficiency or inability of the said defender to pay the said forfeiture or penalties, that then the party offending be set publicly in the stocks for the space of two hours. And all and singular the forfeitures or penalties aforesaid, shall be employed and converted to the use of the poor of the parish where the said offences shall be committed, and to be delivered into the hands of the overseers of the poor for that end, saving only that it shall and may be lawful to and for any such Justice or Justices, out of the said forfeitures or penalties, to reward any person or persons that shall inform of any offence against this Act, according to his or their directions, so as that such reward exceed not the third part of the forfeitures or penalties.

This Act not to prohibit the dressing meat nor selling milk.

X. *Provided*, That nothing in this Act contained shall extend to the prohibiting of dressing of meat in families, or dressing or selling of meat in inns, victualling houses or other publick houses, for such as cannot be otherwise provided; nor to the buying and selling of milk before nine of the clock in the morning, or after four of the clock in the afternoon.

Persons to be presented within ten days after offence.

XI. *Provided also*, That no person nor persons shall be impeached, prosecuted or molested for any offence before mentioned in this Act, unless he or they be prosecuted for the same within ten days after the offence committed.

No writ, process or warrant to be served on the Lord's Day, except for treason, felony or breach of the peace.

XII. *And be it further enacted* by the authority aforesaid, That no person or persons upon the Lord's day shall serve or execute, or cause to be served and executed any writ, process, warrant, order, judgment or decree, except in cases of treason, felony, or breach of the peace; but that the service of every such writ, process, warrant, order, judgment or decree, shall be void to all intents and purposes whatsoever: and the person or persons so serving or executing the same, shall be liable to the suit of the party grieved, and to answer damages to him for doing thereof, as if he or they had done the same without any writ, process, warrant, order, judgment or decree at all; and in case any person or persons shall be imprisoned or detained in custody by any writ, process, warrant, order, judgment or decree so served or executed on the Lord's day, upon motion or petition made to the Chief Justice of the Province, it shall be lawful for the said Chief Justice, and he is hereby authorized and required, immediately to order such person or persons to be discharged out of prison and custody, and to be clear not only from such writ, process, warrant, order, judgment or decree so served on the Lord's day, but also from all or any other writs, process, warrant, order, judgment or decree served or executed upon any person during the time of the said persons being imprisoned or detained, upon the account of any such writ, process, warrant, order, judgment or decree so served or executed on the Lord's day; and such person shall be allowed by the said Chief Justice such reasonable time as he shall think fitting, to return to his home or habitation, free from any arrest or hinderance whatsoever, in any civil matter.

XIII. *And be it further enacted* by the authority aforesaid, That if any action, suit or information shall be commenced against any person or persons for what he or they shall do in pursuance or execution of this Act, such person or persons so sued, may plead the general issue, not guilty, and upon issue joyned give this Act and the special matter in evidence; and if the plaintiff or prosecutor shall become non-suit, or suffer discontinuance, or if a verdict pass against him, the defendant or defendants shall recover his or their treble costs, for which he or they shall have the like remedy as in any case where costs by law are given to the defendant.

A. D. 1712.

Persons sued may plead the general issue.

XIV. *And be it further enacted* by the authority aforesaid, That one Act of Assembly of this Province, entituled an Act for the better observation of the Lord's Day, commonly called Sunday, ratified in open Assembly the fifteenth day of October, one thousand six hundred and ninety-two, and every clause, article, sentence, word, matter or thing contained in the same Act, from henceforth shall be repealed, annulled, revoked, and forever made void, any thing in the said Act to the contrary in any wise notwithstanding.

A former Act repealed.

*Read three times, and ratified in open Assembly,
the twelfth day of December, 1712.*

CHARLES CRAVEN,
CHARLES HART,
ARTHUR MIDDLETON,
THOMAS BROUGHTON,
RALPH IZARD,
SAMUEL EVELEIGH.

AN ACT TO IMPOWER THE RIGHT HONOURABLE THE GOVERNOUR OF THIS PROVINCE, THE LORDS DEPUTIES, THE CHIEF JUSTICE OR THE JUSTICES OF THE PEACE, AND OTHER OFFICERS OR MINISTERS WITHIN THIS PROVINCE, TO EXECUTE AND PUT IN FORCE IN THE SAME, AN ACT MADE IN THE KINGDOM OF ENGLAND IN THE THIRTY-FIRST YEAR OF THE REIGN OF THE LATE KING CHARLES THE SECOND, ENTITULED *An Act for the better securing the Liberty of the Subject, and for the prevention of Imprisonments beyond the Seas, commonly called the Habeas Corpus Act.* No. 321.

WHEREAS, no law or statute hath hitherto been made or enacted which better secures the liberty of the subject than an Act made in the Kingdom of England in the thirty-first year of the Reign of the late King Charles the Second, entituled an Act for the better securing the liberty of the subject, and for the prevention of imprisonment beyond the seas, commonly called the Habeas Corpus Act. But because the said Act cannot fully, wholly and effectually be put in practice and execution in this Province for want of such magistrates, justices and officers so empowered and qualified as is directed and required by the said Act, in order to put the same in execution; therefore, for the effectual supplying the said defect, and that the people of this Province may not lose the benefit of so useful an Act,

Preamble.

A. D. 1712.

The within mentioned persons are impowered to put in execution the Habeas Corpus Act.

I. *Be it enacted* by the Most Noble Prince, Henry Duke of Beaufort, Lord Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, and by the authority of the same, That the Right Honourable Charles Craven, Esq., Governour of this Province, or the Governour for the time being, or any two of the Lords Proprietors Deputies, or the Chief Justice of this Province, or any one of the Lords Proprietors Deputies and any one Justice of the Peace, or any two Justices of the Peace, whereof one to be of the quorum within this part of the Province that lies south and west of Cape Fear, shall have power, and they are hereby authorized, impowered and required, to do, act, and put in execution the said Act, commonly called the Habeas Corpus Act, and every matter, clause and thing therein contained, according to their true intent and meaning, as fully, effectually and lawfully as any Lord Chancellor, Lord Keeper, or any of Her Majesty's Justices, either of the one Bench, or the Barons of the Exchequer of the Degree of the Coif, may, can, or ought to do within the Kingdom of England.

The Provost Marshall or Gaoler to give due obedience in the execution of a Writ of Habeas Corpus.

II. *And be it further enacted* by the authority aforesaid, That every provost marshal, gaoler or other person whatsoever, by what name soever called or known, which hath the keeping of any gaol or prison within the south-west part of this Province, shall have power, and are hereby impowered, authorized, required and commanded, to give due obedience in the execution of every writ of Habeas Corpus made and signed by any person or persons whatsoever, by this Act impowered to make, sign and grant the same, and to do and perform every other matter and thing which any sheriff, under sheriff, gaoler, minister, or other person whatsoever, which hath the keeping of any gaol or prison, by virtue of the said Act ought, may or can do within the Kingdom of England.

Penalty on officers neglecting their duty.

III. *And be it further enacted* by the authority aforesaid, That every person whatsoever to whom any power is given, either judicial or ministerial, by this Act, and which by virtue of this Act he is required and commanded to do, and shall wilfully neglect, refuse or omit to do the same, when the same shall be legally requested and demanded, according to the direction of the said Habeas Corpus Act, and when the person or persons so requesting and demanding the same are legally entitled to request or demand by the said Act, and are within the benefit of the same, according to the true intent and meaning thereof, that then and in such case such person, whether magistrate or officer, wilfully so refusing, neglecting or omitting what this Act requireth and commandeth him or them, for each such wilful neglect, refusal or omission, shall forfeit the sum of five hundred pounds, current money of this Province, loss of places or office, and undergo such penalties as by the said Act is appointed, for every respective magistrate, officer, minister or person whatsoever, within the Kingdom of England, to be recovered in any of the Courts of Record in this Province, in such manner and form as by the said Habeas Corpus Act is appointed to be recovered in any of Her Majesty's Courts at Westminster.

All persons in this Province to have the benefit of the Habeas Corpus Act.

IV. *And be it further enacted* by the authority aforesaid, That all and every person which now is or hereafter shall be within any part of this Province, shall have to all intents, constructions and purposes whatsoever, and in all things whatsoever, as large, ample and effectual right to and benefit of the said Act, commonly called the Habeas Corpus Act, as if he were personally in the said Kingdom of England.

V. *And be it further enacted by the authority aforesaid, That one Act of the Assembly of this Province, entituled an Act to impower the several magistrates, justices, ministers and officers within this part of this Province to execute and put in force an Act made in the Kingdom of England, Anno 31 Caroli 2 Regis, commonly called an Habeas Corpus Act, ratified in open Assembly the fifteenth day of October, 1692, and every clause, article, sentence, word, matter or thing contained in the same, from henceforth shall be repealed, annulled, revoked and forever made void, any thing in the said Act to the contrary whatsoever, in any wise notwithstanding.* A. D. 1712.

A former Act for putting the Habeas Corpus Act in force, repealed.

*Read three times and ratified in open Assembly,
the 12th day of December, 1712.*

CHARLES CRAVEN,
CHARLES HART,
ARTHUR MIDDLETON,
THO. BROUGHTON,
RA. IZARD,
SAMUEL EVELEIGH.

NOTE.—See the English Habeas Corpus Act, p. 117 of Vol. 1 of this work.

AN ACT TO PUT IN FORCE IN THIS PROVINCE THE SEVERAL STATUTES OF THE KINGDOM OF ENGLAND OR SOUTH BRITAIN, THEREIN PARTICULARLY MENTIONED. No. 322.

WHEREAS, many of the statute laws of the Kingdom of England or South Britain, by reason of the different way of agriculture and the differing productions of the earth of this Province from that of England, are altogether useless, and many others, (which otherwise are very apt and good) either by reason of their limitation to particular places, or because in themselves they are only executive by such nominal officers as are not in nor suitable for the Constitution of this Government, are thereby become impracticable here.

I. *Be it enacted by the Most Noble Prince, Henry Duke of Beaufort, Lord Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown, for the South-west part of this Province, and by the authority of the same, That the several statutes, and the several paragraphs and sections, or numbers of the paragraphs of the several statutes of the Kingdom of England, entituled as followeth, and made and enacted in such years of the reigns of the Kings and Queens of England, as before the titles of the several statutes is in this Act set down, and as the same are distinguished and divided into paragraphs and sections or numbers, by Joseph Kehle of Gray's Inn, Esq., in his Statutes at Large, from Magna Charta to the end of the reign of King Charles the Second, and continued, with the addition of all the statutes made in the reign of King James the Second, and King William and Queen Mary, to the end of the last sessions of Parliament, May the*

That the Statutes hereafter enumerated shall be of the same force in this Province as if they had been enacted in the same.

A. D. 1712.

English Statutes Made of Force.

third, 1695, in the seventh year of the reign of his late Majesty, King William the third, in two volumes, printed at London, in the year of our Lord one thousand six hundred ninety and five, and as the same are further continued in a third volume of the Statutes at Large, beginning with the seventh and eighth years of the reign of the late King William the third, and continued to the end of the last session of Parliament, March the fourteenth, 1704, in the fourth year of the reign of her present Majesty, Queen Anne, printed at London in the year of our Lord one thousand seven hundred and six, together with an Addenda to the said third volume, beginning with the fourth year of the reign of her present Majesty Queen Anne, and continued to the end of the last session of Parliament, April the first, 1708, in the seventh year of her said present Majesty's reign, printed at London in the year of our Lord one thousand seven hundred and eight, and the statutes printed since the said third volume and the addenda, being statutes made in the seventh and eighth years of her present Majesty's reign, at the Parliament summoned to be held at Westminster, the eighth day of July, Anno Dom. 1708, in the seventh year of her Majesty's reign, and by several writs of prorogation begun and holden on the sixteenth day of November, 1708, being the first session of the said Parliament and from thence continued by several prorogations to the fifteenth day of November, 1709, being the second session of the said Parliament, which statutes were printed at London by her Majesty's printers, in the years 1708, 1709 and 1710; are and are hereby to be in as full force, power and virtue as if the same had been specially enacted and made for this Province, or as if the same had been made and enacted therein by any General Assembly thereof, (that is to say,)

The Names of
the Kings.

HENR. 3.

EDW. 1.

The Names of the Kings.	The Years of the Kings Reigns.	The Chapters of the Statutes.	THE TITLES OF THE STATUTES <i>Made of force in SOUTH CAROLINA.</i>	The numbers of the Statutes made of force in South Carolina.	
				The pages in the three vols. of the Statutes at Large.	
			HENR. 3.		
	9		9.		
		Mag. Char. C. 1	The Great Charter, in the ninth year of King Henry the Third.	Vol. 1 Pag. 1	No. 1
			A Confirmation of Liberties.		
		8	How sureties shall be charged to the King.	2	2
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II. *And be it further enacted* by the authority aforesaid, That in any of the above enumerated statutes, where any reference is made to any former statute, as to the penalty, or the manner of recovery, or execution of the said statutes, or where the said statutes are explained, or continued, or made perpetual, or confirmed by any after statute, that in such case the said statute so referred to, or that doth continue, make perpetual or confirm any of the said enumerated statutes, as to so much of them as is so referred to, or that doth explain, continue, make perpetual or confirm the above enumerated statutes, are hereby declared to be of as full force in this Province, as if particularly enumerated in this Act.

III. *And be it further enacted* by the authority aforesaid, That all the statutes of the kingdom of England relating to the allegiance of the people to her present Majesty Queen Anne and her lawful successors, and the several publick oaths, and subscribing the tests required of the people of England in general by any statute of the said kingdom, and also all such statutes in the kingdom of England as declare the rights and liberties of the subjects and enact the better securing the same, as to so much of the said statutes as relates to the abovementioned particulars of the allegiance of the people to their Sovereign, the publick oaths, and subscribing the tests required of them, and the declaring and securing the rights and liberties of the subjects, are hereby enacted and declared to extend to and be of full force in this Province, as if particularly enumerated in this Act.

IV. And for the better putting in force and execution of all and every the before enumerated statutes, paragraphs, sections or numbers of paragraphs of statutes, *Be it further enacted* by the authority aforesaid, and it is hereby enacted and declared, That the General Assembly for that part of this Province that lyes south and west of Cape Fear, and the several members thereof, shall have the same power and authority in any matter or thing relating to the said statutes, or that is given by the same to the Parliament of England or the members thereof; and the Honourable the Governour and the Council of this Province for the time being, shall have all the power and authority relating to the execution of the said enumerated statutes, as by the same or by any other the laws of England are given to the Lord Chancellor or the Lord Keeper of the Great Seal of England; that the Chief Justice of this Province and his lawful successors shall have all the power and authority in the execution of any the said enumerated statutes as the Chief Justice or any the Justices or Judges of the Courts of Queen's Bench or Common Pleas, or the Chief Baron or Barons of the Court of Exchequer, or any Justices of the Sessions or Commissioners of Oyer and Terminer and Gaol Delivery in the Kingdom of England, can or may have or do; and that the Justices of the Peace in this Province shall have the powers of the Justices of the Peace in the Kingdom of England; and every officer, minister, or under officer, of this Province, shall have and execute the same power and authority of every justice, officer, minister or under officer of the same name, stile, title and usual office, employment and authority in the Kingdom of England, in and about the execution of the premises, to all intents, constructions and purposes whatsoever.

V. *And be it further enacted* by the authority aforesaid, That all and every part of the Common Law of England, where the same is not altered by the above enumerated Acts, or inconsistent with the particular constitutions, customs and laws of this Province, excepting so much thereof as hath relation to the ancient tenures which are taken away by Act of Parlia-

What Statutes
are to be of
force.

Statutes of
allegiance and
rights and
liberties, to be
of force.

Powers of the
General
Assembly,
magistrates and
officers, to put
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Common Law
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declared to be
of force.

A. D. 1712.

*English Statutes Made of Force.*Court of
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ment made in the twelfth year of the reign of King Charles the Second, chapter 24th, entituled an Act for taking away the Court of Wardes and Liveries and Tenures in Capite, and by Knights service and Purveyance, &c., whereby it is enacted that all tenures by the common law, whether held of the King or any other person or persons, are turned into free and common soccage, and which statute, as to that part of it which doth enact that all tenures be turned into free and common soccage, is hereby enacted and declared to be of as full force in this Province as if particularly enumerated by this Act; and also excepting that part of the common law which relates to matters ecclesiastical, which are inconsistent with or repugnant to the settlement of the Church of England in this Province, by the several Acts of Assembly thereof, be and is hereby made and declared to be in as full force and virtue within this Province, as the same is or ought to be within the said Kingdom of England; and that the Governour for the time being, with his Council, constituting a Court of Chancery in this Province, shall have power to put in execution and cause to be put in execution in this Province, so much of the said common law, except as before excepted, as the Lord Chancellor or Lord Keeper of the Great Seal of Great Britain may do in the Kingdom of England; and the Chief Justice of this Province may put in execution so much of the said common law of England within this Province, except also as before excepted, as any of the Justices or Judges of any the Courts of Queen's Bench and Common Pleas, or Barons of the Exchequer, or Commissioners of Oyer and Terminer and Goal Delivery, may do in the said Kingdom of England; and every officer, minister or under officer of this Province, shall execute so much of the said law within this Province, except as before excepted, as any officer, minister or under officer of the same name, stile, power and authority in the Kingdom of England, may or ought to execute within the same.

Penalty for
neglect of duty.

VI. *And be it further enacted* by the authority aforesaid, That every person respectively whatsoever, which derives any authority or power, judicial or ministerial, from and by this Act, which shall or doth neglect, refuse or omit to do and execute all or any such things which by the Acts before enumerated or made of force in this Province by this Act, are required to be done and executed, shall undergo such penalties, forfeit such sum or sums of money, loss of place or office, for each such neglect, refusal or omission, as every respective magistrate, officer, minister or person whatsoever within the Kingdom of England or South Britain, ought to undergo, forfeit and suffer by every respective Act, to be prosecuted, recovered and disposed according to the directions of the said several Acts, in any of the Courts of Record in this Province.

Fees appointed
by the Act of
Assembly may
be taken.

VII. *And be it further enacted* by the authority aforesaid, That the Governour, the Chief Justice of the Court of Common Pleas, and every other officer, minister, under officer, and every other person whatsoever concerned in the execution of any the before enumerated Acts, shall and may take such and so much fees for doing and executing every matter and thing contained within the said Acts, as by one Act of Assembly of this Province made and ratified at Charlestown the eighth day of October, Anno Domini one thousand six hundred ninety and eight, entituled an Act for ascertaining Publick Officers Fees, they may or ought to take and receive, any thing in any of the statutes mentioned in this Act to the contrary contained notwithstanding.

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A. D. 1712.

VIII. *And be it further enacted*, That every Court of Record within this Province shall be taken for and have and execute the power of the King's or Queen's Courts mentioned in any of the before recited Acts; and that the Marshall's house in this Province, or such publick prison as shall afterwards be built by Act or ordinance of the General Assembly and declared to be the publick prison of this Province, shall be taken for the prison of the Fleet, or any other prison or gaol within the Kingdom of England mentioned in any the before recited Acts; and that every constable within this Province shall execute all the powers of any bailiff mentioned in the before enumerated Acts; and that every person which in his proper right doth possess and enjoy three hundred acres of land within this Province, shall do and be capable to perform and execute all and every such thing or things as any person or persons possessed of lands within the Kingdom of England of twenty marks per annum value, by virtue of any of the before enumerated Acts.

The Courts of Record to have the power of the King's and Queen's courts.

IX. *And be it further enacted* by the authority aforesaid, That all conveyances or settlements of lands or tenements, made in this Province, by way of lease and release, shall be as good and effectual in law, to all intents and purposes whatsoever, as if the statute for transferring uses into possession had been made of force in this Province at the time of such conveyances made.

Conveyances made before this Act shall be valid in law.

X. *And be it further enacted* by the authority aforesaid, That all the statute laws of the Kingdom of England which are not enumerated and made of force in this Province by this Act, (such only excepted which relate to or concern Her Majesty's customs, and the Acts of Trade and Navigation,) are hereby declared impracticable in this Province.

Certain statutes declared impracticable.

XI. *Provided* nevertheless, and be it hereby enacted and declared, That because few or none of the statute laws of the Kingdom of England, made since the eighth year of her present Majesty's reign, have been transmitted to this Province, all statute laws made within the Kingdom of Great Britain since the eighth year of the reign of her present Majesty, shall be deemed, construed and taken to have such and the same relation to and force in this Province, and on all her Majesty's subjects inhabiting and dwelling in the same, as the same might, could, or ought to have had, if this Act had never been made.

Statutes made since the 8th of Q. Anne, to be in force.

XII. *Provided* also, and be it hereby enacted and declared by the authority aforesaid, That the declarative part of an Act made in the thirteenth year of the reign of the late King Charles the Second, chap. 6, entitled an Act declaring the sole right of the Militia to be in the King, &c., is hereby acknowledged and declared to be of the same force, effect and power in this Province as if this Act had never been made.

Part of a statute to be of force.

XIII. *Provided* also, that this Act nor any enumerated statute or clause of any statute in the same contained, shall be construed or extended to take away or abridge the liberty of conscience, or any other liberty in matters ecclesiastical, from any of the inhabitants of this Province, but that the same may and shall be enjoyed, according to the powers and privileges granted to the true and absolute Lords and Proprietors of this Province by their charter from the Crown, and the several Acts of Assembly in this Province now in force relating to the same.

Liberty of conscience confirmed.

XIV. *And further provided*, That this Act nor any enumerated Act or clause or paragraph of any Act therein contained, shall not be construed or extended to alter the usual course of proceedings in the several courts of judicature in this Province, and the manner of drawing or balloting of

Proviso.

A. D. 1712.

English Statutes Made of Force.

Jurymen, as the same is prescribed by one Act of Assembly in this Province, entituled an Act to provide Indifferent Jurymen in all Causes Civil and Criminal, ratified in open Assembly the seventh day of January, 1694-5, and the several additional Acts to the same, and all other the Acts of Assembly of this Province, and of force in the same, relating to Juries; and all other the Acts of Assembly of this Province relating to the regulating proceedings of the Courts of Judicature in this Province; which are hereby declared to be of as full force and virtue as if this Act had never been made; and the above enumerated Statutes of the Kingdom of England, are hereby enacted to be put in execution in this Province, as to the substantial parts, and so as not to alter the usual proceedings in our Courts in this Province, and the said Jury Acts, any particular clauses or paragrapes in the above enumerated Acts, with respect to the particular circumstances of England, being or seeming to be to the contrary thereof in any wise notwithstanding.

A former Act
repealed.

XV. *And be it further enacted* by the authority aforesaid, That one Act of Assembly of this Province, entituled an Act to put in force the several Acts of the Kingdom of England therein particularly mentioned, ratified in open Assembly the twentieth day of June, 1694, and every clause, article, sentence, matter and thing therein contained, from henceforth shall be repealed, annulled, revoked and for ever made void to all intents and purposes whatsoever.

*Read three times and ratified in open Assembly,
the twelfth day of December, Anno Dom. 1712.*

CHARLES CRAVEN,
CHARLES HART,
AR. MIDDLETON,
THO. BROUGHTON,
RALPH IZARD,
SAM. EVELEIGH.

English Statutes Made of Force.

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(The English Statutes in force by virtue of the preceding Act, are as follows.)

THE GREAT CHARTER.

A. D. 1225.

A CONFIRMATION OF LIBERTIES. (*See Vol. 1, of this Edition.*)

9 H. 3. c. 1.

How Sureties shall be charged to the King.

c. 8.

WE or our Bailiffs shall not seise any land or rent for any debt, as long as the present Goods and Chattels of the debtor do suffice to pay the debt, and the debtor himself be ready to satisfy therefore. (2) Neither shall the pledges of the debtor be distrained, as long as the principal debtor is sufficient for the payment of the debt. (3) And if the principal debtor fail in payment of the debt, having nothing wherewith to pay, or will not pay where he is able, the pledges shall answer for the debt. (4) And if they will, they shall have the lands and rents of the debtor, until they be satisfied of *that* which they before payed for him, except that the debtor can shew himself to be acquitted against the said sureties.

Plowd. 440.
2 Inst. 18.
Regist. 158.

*Orig. The Debt
†Add Principal:
Infra. c. 18.

The King's Debtor dying, the King shall be first paid.

9 H. 3. c. 18.

IF any that holdeth of us Lay-fee do die, and our Sheriff or Bailiff do shew our letters patents of our summon for debt, which the dead man did owe to us, it shall be lawful to our Sheriff or Bailiff to attach and inroll all the goods and chattels of the dead, being found in the said fee, to the value of the same debt, by the sight *†* and testimony of lawful men, so that nothing thereof shall be taken away, until we be clearly paid off the debt; (2) and the residue shall remain to the executors to perform the testament of the dead; (3) and if nothing be owing unto us, all the chattels shall go to the use of the dead (saving to his wife and children their reasonable parts.)

Rast. Ent. f. 541.
Co. Ent. f. 564.
Fitz. Detinue.
32, 56, 58, 60.
Bro. Ration. 2,
5, 6.
2 Inst. 32.
†Add Lay.
†Not in orig.
Supra, cap. 8.

Wager of Law shall not be without Witness.

9 H. 3. c. 28.

NO Bailiff from henceforth shall put any man to his open law, nor to an oath, upon his own bare saying, without faithful witnesses brought in for the same.

Fitz. Ley. 78.
Bro. Ley. 37.
2 Inst. 44.

None shall be condemned without Trial. Justice shall not be sold or deferred.

9 H. 3. c. 29.

NO freeman shall be taken, or imprisoned, or be disseised of his freehold, or liberties, or free customs, or be outlawed, or exiled, or any otherwise destroyed; *nor will we not pass upon him, nor condemn him**, but by lawful judgment of his peers, or by the law of the land. (2) We will sell to no man, we will not deny or defer to any man either justice or right.

5 Co. 64.
10 Co. 74.
11 Co. 99.
2 Inst. 45.
Regist. 186.
Mirror 314.
1 Anders. 158.

2 Bulstr. 328. 3 Bulstr. 47. Wood's Inst. 613, 614. Enforced by 2 Ed. 3. c. 8. Confirmed by 5 Ed. 3. c. 9. 14. Ed. 3. stat. 1. c. 14. Confirmed and amended by 25 Ed. 3. stat. 5. c. 4. 28 Ed. 3. c. 3. 37. Ed. 3. c. 3. 11 R. 2. c. 10. See 4 H. 7. c. 12. giving Directions to Justices of the Peace. 1 Roll. 206, 209, 225. 12 Co. 50, 63, 93.

* The words above, marked in Italics, do by no means express the sense of the original. The two verbs, *Ibimus* and *Mitemus* evidently stand in contradistinction to each other, and are indeed much easier expounded than translated; therefore we cannot do better than recur to Lord Coke's exposition, which is as follows:—"No man shall be condemned at the King's suit, either before the King in his Bench, where the pleas are *Coram Rege*, (and so are the words *nec super eum ibimus*, to be understood) nor before any other Commissioner or Judge whatever, (and so are the words *nec super eum mitemus*, to be understood.)"

English Statutes Made of Force.

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A. D. 1825.
9 H. 3. c. 31.*In what only Case a Woman shall have an Appeal of Death.*Bro. Appeal, 5.
Rast. Ent. 43.
17, 60, 68, 101,
112.

NO man shall be taken or imprisoned upon the appeal of a woman for the death of any other than of her husband.

*He is a Bastard that is born before the Marriage of his Parents.*A. D. 1235.
20 H. 3. c. 9.
Merton.Fitz. Bastardy,
21, 22, 25, 27,
28, 30, 33.
1 H. 6. 3.
11 H. 4. 84.
39. Ed. 3. 14.
44 Ed. 3. 12.
12 Co. 72.
* For within
read after.
2 Inst. 96.

TO the King's Writ of Bastardy, Whether one being born before matrimony may inherit in like manner as he that is born after matrimony, all the Bishops answered, That they would not, nor could not, answer to it; because it was directly against the common Order of the Church. (2) And all the Bishops instanted the Lords, that they would consent, that all such as were born afore matrimony should be legitimate, as well as they that be born * *within* matrimony, as to the succession of inheritance, for so much as the Church accepteth such for legitimate. And all the Earls and Barons with one voice answered, that they would not change the laws of the realm, which hitherto have been used and approved.

A. D. 1267.
52 H. 3. c. 4.
Marle Bridge.*A Distress shall not be driven out of the County. And it shall be reasonable.*Fitz. Bar. 120.
275.
29 Ed. 3. c. 23.
* This seems
to be a mistaken
reference, there
being no stat. in
29th of Ed. 3.
Kel. 50.
Enforced by 3
Ed. 1. c. 16.
Ed. 1. stat. 3. c.

NONE from henceforth shall cause any Distress that he hath taken, to be driven out of the county where it was taken; (2) and if one neighbour do so to another of his own authority, and without judgment, he shall make fine (as above is said) as for a thing done against the peace. (3) Nevertheless, if the lord presume so to do against his tenant, he shall be grievously punished by amercement. (4) Moreover, Distresses shall be reasonable, and not too great. (5) And he that taketh great and unreasonable Distresses, shall be grievously amerced for the excess of such Distresses.

Enforced and amended by 1 & 2 P. & M. c. 12. Distresses shall be reasonable. Enforced by 28 Ed. 1. stat. 3. c. 12. 2 Inst. 106.

52 H. 3. c. 23.

*A Remedy against Accomptants. Fermors shall make no Waste.*Fitz. Brief,
791, 806.
Fitz. Process,
203. Fitz. Ex-
igent, 12.
1 Roll. 182.
2 Inst. 143.

IT is provided also, That if bailiffs, which ought to make account to their lords, do withdraw themselves, and have no lands nor tenements whereby they may be distrained; then they shall be attached by their bodies, so that the sheriff, in whose balliwick they be found, shall cause them to come to make their account.

* Not in the
original
Mirror 320.
5 Co. 18. Dyer,
f. 281. Fitz.
Wast. 12, 22, 30,
32, 37, 42, 43, 46,
47, 48, 53, 68, 69,
76, 78, 82, 83.
4 Co. 13. Rast.

II. Also, Fermors, during their terms, shall not make waste, * *sale*, nor exile of house, woods, and men, nor of any thing belonging to the tenements that they have to ferm, without special licence had by writing of covenant, making mention, that they may do it; which thing if they do, and thereof be convict, they shall yield full damage, and shall be punished by amercement grievously.

689. 2 Inst. 144. Enforced by 6 Ed. 1. stat. 1. c. 5. which gives treble damages.

52 H. 3. c. 25.

*What kind of Man-slaughter shall be adjudged Murther.*Keyling, 123.
Co. Ent. 351.
2 Inst. 148.
2 Rol. 120.

MURDER from henceforth shall not be judged before our Justices, where it is found misfortune only, but it shall take place in such as are slain by felony, and not otherwise.

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No Penalty for an Escape before it be adjudged.

A. D. 1275.

IT is provided also, That nothing be demanded nor taken from hence-
forth, nor levied by the sheriff, nor by any other, for the escape of a thief
or a felon, until it be judged for an Escape by the Justices in Eyre.
(2) And he that otherwise doth, shall restore to him or them that have
payed it, as much as he or they have taken or received, and as much also
unto the King.

What shall be adjudged Wreck of the Sea, and what not.

3 Ed. 1. c. 4.

CONCERNING Wrecks of the Sea, it is agreed, that where a man, a
dog, or a cat escape quick out of the ship, that such ship nor barge, nor
any thing within them, shall be adjudged wreck : (2) but the goods shall
be saved and kept by view of the Sheriff, Coroner, or the King's Bailiff,
and delivered † into the hands of such as are of the town where the goods
were found ; (3) so that if any sue for those goods, and after prove that
they were his, ‡ or perished in his keeping, within a year and a day, they
shall be restored to him without delay ; and if not, they shall remain to
the King, and be seised by the Sheriffs, Coroners and Bailiffs, and shall be
delivered to them of the town, which shall answer before the Justices of
the wreck belonging to the King. (4) And where wreck belongeth to
another than to the King, he shall have it in like manner. (5) And he that
otherwise doth, and thereof be attainted, shall be awarded to prison, and
make fine at the King's will, and shall yield damages also. (6) And if a
bailiff do it, and it be disallowed by the lord, and the lord will not pretend
any title thereunto, the bailiff shall answer, if he have whereof ; and if he
have not whereof, the lord shall deliver his bailiff's body to the King.

Amerciaments shall be reasonable, and according to the Offence.

3 Ed. 1. c. 6.

AND that no city, borough, nor town, nor any man be amerced, with-
out reasonable cause, and according to the quantity of his trespass ; that
is to say, every freeman, saving his freehold, a merchant saving his mer-
chandize, a villain saving his waynage, and that by his or their peers.

The Punishment of Felons refusing lawful Trial.

A. D. 1275.

IT is provided also, That notorious felons, and which openly be of evil
name, and will not put themselves in inquests of felonies, that men shall
charge them with before the Justices at the King's suit, shall have strong
and hard imprisonment, as they which refuse to stand to the common law
of the land. But this is not to be understood of such prisoners as be taken
of light suspicion.

Appeal against the Principal and Accessary.

3 Ed. 1. c. 14.

AND forasmuch as it hath been used in some countries to outlaw per-
sons being appealed of commandment, force, aid, or receipt within the
same time that he which is appealed for the deed is outlawed ; it is pro-
vided and *commanded by the King, That none be outlawed upon appeal
of commandment, force, aid, or receipt, until he that is appealed of the
deed be attainted, so that one like law be used therein through the realm:
[2] Nevertheless he that will so appeal, shall not by reason of this, intermit
or leave off to commence his appeal at the next county against them, no
more than against their principals, which he appealed of the deed ; but

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their Exigent shall remain, until such as be appealed of the deed be attainted by outlawry, or otherwise.

3 Ed. 1. c. 23.

None shall be distrained for a Debt that he oweth not.

A stranger shall
not be distrain-
ed for Debt.
2 Inst. 204.

IT is provided also, That in no city, borough, town, market, or fair, there be no foreign person (which is of this realm) distrained for any debt wherefore he is not debtor or pledge; and whosoever doth it shall be grievously punished, and without delay the Distress shall be delivered unto him by the bailiffs of the place, or by the King's bailiffs, if need be.

3 Ed. 1. c. 29.

2 Inst. 212, 213.

Enforced and

enlarged by 8

R.2.c.4. Rast.2

11 Ed. 4 3. b.

Salk. 517.

Palmer, 238.

The Penalty of a Serjeant or Pleader committing Deceit.

IT is provided also, That if any Serjeant, Pleader, or other, do any manner of deceit or collusion in the King's Court, or consent unto it, in deceit of the court, or to beguile the court, or the party, and thereof be attainted, he shall be imprisoned for a year and a day, and from thenceforth shall not be heard to plead in that court for any man; (2) and if he be no pleader, he shall be imprisoned in like manner by the space of a year and a day at least; and if the trespass require greater punishment, it shall be at the King's pleasure.

A D. 1278.

6 Ed. 1. c. 9.

One Person killing another in his own Defence, or by Misfortune, an Appeal of Murther.

9H. 3 st. 1.c.26.

3 Ed. 1 c. 11.

2 Inst. 314.

Kel. fo. 53, 108.

Wood's Inst.

623. Bulst. 80.

See 2Ed. 3.c.2.

and 14 Ed. 3.

stat. 1. c. 15. in

what cases the

King's pardon

shall be granted

And see the 2

Ed.3.c.9. which

orders that no

Writ shall be

directed to a

Sheriff to

charge an In-

quest to indict

any.

THE King commandeth that no Writ shall be granted out of the Chancery for the death of a man to enquire whether a man did kill another by misfortune, or in his own defence, or in other manner without felony; (2) but he shall be put in prison until the coming of the Justices in Eyre, or Justices assigned to the Gaol-Delivery, and shall put himself upon the country before them for good and evil: (3) in case it be found by the country, that he did it in his defence, or by misfortune, then by the report of the Justices to the King, the King shall take him to his grace, if it please him. (4) It is provided also, that no appeal shall be abated so soon as they have been heretofore; but if the appellor declare the deed, the year, the day, the hour, the time of the King, and the town where the deed was done, *and with what weapon he was slain, the appeal shall stand in effect, (5) and shall not be abated for default of fresh suit, if the party shall sue within the year and the day after the deed done.

* Not in the Original. Regist. 134, 300.

A. D. 1285.

13 Ed. 1. c. 11.

Westm. 2d.

In what cases

Auditors may

commit

Accomptants

to prison.

Co. Lit. 295. a.

2 Inst. 378.

Fitz. Accompt,

96, 109.

Fitz. Avowry,

220.

Regist. 137.

Rast. 14, &c.

Accomptant's

Relief.

The Masters Remedy against their Servants and other Accomptants.

CONCERNING servants, bailiffs, chamberlains, and all manner of Receivers, which are bound to yield accompt, it is agreed and ordained, That when the masters of such servants do assign auditors to take their accompt, and they be found in arrearages upon the accompt, all things allowed which ought to be allowed, their bodies shall be arrested, and by the testimony of the auditors of the same accompt, shall be sent or delivered unto the next gaol of the King's in those parts; (2) and shall be received of the sheriff or gaoler, and imprisoned in iron under safe custody, and shall remain in the same prison at their own cost, until they have satisfied their master fully of the arrearages. (3) Nevertheless if any person being so committed to prison, do complain, that the auditors of his accompt have grieved him unjustly, charging him with receipts that

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he hath not received, or not allowing him expences, or reasonable disbursements, and can find friends that will undertake to bring him before the Barons of the Exchequer, he shall be delivered unto them; (4) and the sheriff (in whose prison he is kept) shall give knowledge unto his master, that he appear before the Barons of the Exchequer at a certain day, with the rolls and tallies by which he made his accompt; and in the presence of the Barons, or the auditors that they shall assign him, the accompt shall be rehearsed, and justice shall be done to the parties, so that if he be found in arrearages, he shall be committed to the Fleet, as above is said. (5) And if he flee, and will not give accompt willingly, as is contained elsewhere in other statutes, he shall be distrained to come before the Justices to make his accompt, if he have whereof to be distrained. (6) And when he cometh to the court, auditors shall be assigned to take his accompt, before whom if he be found in arrearages, and cannot pay the arrearages forthwith, he shall be committed to the gaol, to be kept in manner aforesaid.— (7) And if he flee, and it be returned to the sheriff that he cannot be found, Exigents shall go against him from county to county, until he be outlawed; and such prisoner shall not be replevisable. (8) And let the sheriff or keeper of such gaol take heed, if it be within a Franchise, or without, that he do not suffer him to go out of prison by the common writ called *Replegiare*, or by other means, without assent of his master; (9) and if he do, and thereof be convict, he shall be answerable to his master of the damages done to him by such his servant, according as it may be found by the Country, and shall have his recovery by writ of debt. (10) And if the keeper of the gaol have not wherewith he may be justified, or not able to pay, his superior that committed the custody of the gaol unto him, shall be answerable by the same writ.

Fitz. Accompt, 23, 26, 47, 74, 106.

52 H. 3. c. 23.
29 Ed. 3. f. 5.An Exigent
against an
Accomptant.
17 Ed. 3. f. 59.Escape of an
Accomptant.
1 R. 2 c. 12.2 Leon. 9.
Fitz. Det. 172.Fitz. issu. 160.
Bro. Det. 103.

2 Bulstr. 321.

The Appellant being acquitted, the Appellor and Abettors shall be punished. 13 Ed. 1. c. 1.
There shall be no Essoin for the Appellor.

FORASMUCH as many, through malice intending to grieve other, do procure false Appeals to be made of homicides, and other felonies by Appellors, having nothing to satisfy the King for their false appeal, nor to the parties appealed for their damages; (2) it is ordained, That when any, being appealed of felony surmised upon him, doth acquit himself in the King's Court in due manner, either at the suit of the Appellor, or of our Lord the King, the Justices, before whom the appeal shall be heard and determined, shall punish the appellor by a year's imprisonment, and the appellors shall nevertheless restore to the parties appealed their damages, according to the discretion of the Justices, having respect to the imprisonment or arrestment that the party hath sustained by reason of such appeals, and to the infamy that they have incurred by the imprisonment or otherwise, and shall nevertheless make a grievous fine unto the King. (3) And if peradventure such appellor be not able to recompence the damages, it shall be inquired by whose abetment or malice the appeal was commenced, if the party appealed desire it; (4) and if it be found by the same inquest, that any man is abettor through malice, at the suit of the party appealed, he shall be distrained by a judicial writ to come before the justices; (5) and if he be lawfully convict of such malicious abetment, he shall be punished by imprisonment and restitution of damages, as before is said of the appellor. (6) And from henceforth in appeal of the death of a man, there

Punishment of
an Appellor for
a false Appeal.
12 Co. 126.Hob. 98.
Fitz. Damage,
77. Fitz. Coron.
12, 77, 98, 386.11 Co. 77.
See 1 Ed. 3. stat
1. c. 7. which di-
rects inquiry to
be made of gaol-
ers who compel
prisoners to ap-
peal, and 14 Ed.
3. stat. 1. c. 10.
which makes it
felony in such
gaoler.Regist. 56.
Inquiry of
Abettors.
12 Co. 125.Cro. El. 223, 71.
14 H. 7. 2.26 H. 8. 3.
Dyer, 120, 131.8 H. 5. 6.
8 Ed. 4. 3.

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No Essoin for
the Appellor.
Regist. 134.
2 Inst. 383.

shall no essoin lie for the appellor, in whatsoever court the appeal shall hap to be determined.

13 Ed. 1. c. 19.

The Ordinary chargeable to pay Debts as Executors.

See A. A. 1789.

Dyer, 232.
5 Co. 83.
Fitz. Brief. 822.
Fitz. Execut.
77. 2 Inst. 397.
By 31 Ed. 3.
stat. 1. c. 11.
The Ordinary
shall commit
administration.

WHEREAS after the death of a person dying intestate, which is bounden to some other for debt, the goods come to the Ordinary to be disposed; (2) the Ordinary from henceforth shall be bound to answer the debts as far forth as the goods of the dead will extend, in such sort as the executors of the same party should have been bounden, if he had made a testament.

And for the duty of Ordinary and Administrator, see. 43. El. c. 8. 22 & 23. Car. 2, c. 10. 29 Car. 2, c. 3, sec. 25. and 1 Jac. 2. c. 17.

13 Ed. 1. c. 34.

It is Felony to commit Rape. A married Woman elopeth with an Advouterer.

It is felony to
ravish a woman
If a wife elope
with an advou-
terer, she shall
forfeit her
dower.

1 Inst. 32.
See 18 Eliz. c. 7,
which takes
away clergy
from offences
of Rape. Like-
wise sec. 4th of
the same stat.
which makes it
felony, without
clergy, to have
carnal knowl-
edge of a
woman child
under the age of ten years. Regist. 57. 2 Roll. 247. 9 Ed. 4. f. 26. Bro. Coron. 203.—
Dyer, 256. Fitz.
Dower, 41, 72, 94, 119, 153. Fitz. Act. sur le stat. 12, 37.

IT is provided, That if a man from henceforth do ravish a woman married, maid, or other, where she did not consent, neither before nor after, he shall have judgment of life and of member. (2) And likewise where a man ravisheth a woman married, lady, damosel, or other, with force, although she consent after, he shall have such judgment as before is said, if he be attainted at the King's suit, and there the King shall have the suit. (3) And of women carried away with the goods of their husbands, the King shall have the suit for the goods so taken away. [4] And if a wife willingly leave her husband, and go away, and continue with her advouterer, she shall be barred forever of action to demand her dower, that she ought to have of her husband's lands, if she be convict thereupon, except that her husband willingly, and without coercion of the Church, reconcile her, and suffer her to dwell with him; in which case she shall be restored to her action.

13 Ed. 1. c. 37.

No Distress shall be taken but by Bailiffs known and sworn.

2 Inst. 445.

3 Co. 12.

FORASMUCH also as Bailiffs, to whose office it belongeth to take Distresses, intending to grieve their inferiors, that they may exact money of them, do send strangers to take distresses, to the intent that they might grieve their inferiors, by reason that the parties so distrained, not knowing such persons, will not suffer the distresses to be taken; [2] it is provided, That no distress shall be taken, but by bailiffs sworn and known. [3] And if they which do distrain do otherwise, and thereof be convict (if the parties grieved will purchase a writ of trespass) they shall restore damages to the parties grieved, and besides, shall be grievously punished towards the King.

13 Ed. 1. c. 40.

A Woman's Suit shall not be deferred by the minority of the Heir.

Fitz. Age. 47,
76, 126, 133.
Fitz. Voucher,
180, 183, 226,
2 Leon. 148.
305. Rast. 132.
2 Inst. 455.

WHERE any doth aliene the right of his wife, it is agreed, That from henceforth the suit of the woman, or her heir, after the death of her husband, shall not be delayed by the nonage of the heir that ought to warrantise, but let the purchaser tarry, which ought not to have been ignorant that he bought the right of another, until the age of his warrantor, to have his warranty.

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Nothing shall be taken to maintain any matter in suit.

AND further, because the King hath heretofore ordained by statute, that none of his ministers shall take no plea for maintenance, by which statute other officers were not bounden before this time; [2] the King will, that no officer nor any other (for to have part of the thing in plea) shall not take upon him the business that is in suit; [3] nor none upon any such covenant shall give up his right to another; [4] and if any do, and he be attainted thereof, the taker shall forfeit unto the King so much of his lands and goods as doth amount to the value of the part that he hath purchased for such maintenance. [5] And for this attaindre, whosoever will, shall be received to sue for the King before the justices, before whom the plea hangeth, and the judgment shall be given by them. [6] But it may not be understood hereby that any person shall be prohibit to have counsel of pleaders, or of learned men in the law for his fee, or of his parents and next friends.

A. D. 1300.
28 Ed. 1. c. 11.
Sta. 3. Art.
super Chartas.
13 H. 4. f. 17.
Fitz. Champerty, 3, 4, 6, 12, 14, 15.
2 Inst. 118.
Enforced by 33.
Ed. 1. stat. 3.
4 Ed. 3. c. 11.
20 Ed. 3. c. 4.
and 38. H. 8. c. 9.
against buying
of Titles, &c.
21 Ed. 3. f. 52.
Bro. Champerty, 11.
Rast. 119, 427,
&c.

What shall be done with them that make false returns of Writs.

THAT shall be done with them that make false returns, whereby right is deferred, as it is ordained in the second Statute of Westminster, with like pain.

28 Ed. 1. c. 16.
2 Inst. 568.
13 Ed. 1. stat. 1.
c. 39.

Who be Conspirators and who be Champertors.

CONSPIRATORS be they that do confeder or bind themselves by oath, covenant, or other alliance, that every of them shall aid and bear the other falsely and maliciously to indite, or cause to indite, [2] or falsely to move or maintain pleas; [3] and also such as cause children within age to appeal men of felony, whereby they are imprisoned and sore grieved; [4] and such as retain men in the country with liveries or fees for to maintain their malicious enterprizes; and this extendeth as well to the takers as to the givers. [5] And stewards and bailiffs of great Lords, which by their seignory office or power, undertake to bear or maintain quarrels, pleas or debates that concern other parties than such as touch the estate of their Lords or themselves. [6] This ordinance and final definition of conspirators was made and accorded by the King and his council in his Parliament the 33d year of his reign. [7] And it was further ordained, that justices assigned to the hearing and determining of felonies and trespasses, should have the transcript hereof.

A. D. 1304.

33 Ed. 1. stat. 2.
20 H. 7. f. 11.
Fitz. Barre, 4.
Kel. 81.
Fitz. Consop. 2,
4, 5, 10, 13, 14,
15, 16, 19, 21,
22, 25.
8 Co. 37.
V. N. B. 56.
F. N. B. 117. H.
Rast. 123.
2 Inst. 562.
3 Inst. 143.

[8] *Champertors be they that move Pleas and Suits, or cause to be moved, either by their own procurement, or by others, and sue them at their proper costs for to have part of the land in variance, or part of the gains.

Who be Champertors? *Not in the Orig.

The punishment of such as commit Champerty.

WHERE it is contained in our Statute, that none of our Court shall take any plea to champerty by craft nor by engine; (2) and that no pleaders, apprentices, attornies, stewards of great men, bailiffs, nor any other of the realm, shall take for maintenance, or the like bargain, any manner of suit or plea against other, whereby all the realm is much grieved, and both rich and poor troubled in divers manners; (3) it is provided by a common accord, that all such as from henceforth shall be attainted of such emprises,

A. D. 1305.
33 Ed. 1. st. 3.
28 Ed. 1. st. 3.
c. 11.
Rast. 119.
20 H. 6. f. 33.
9 H. 7. f. 18.
15 H. 7. f. 2.
Regist. 183.
Enforced by 4
Ed. 3. c. 11.
20 Ed. 3. c. 4.

A. D. 1713.

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and 32 H. 8. c. suits, or bargains, and such as consent thereunto, shall have imprisonment 9. against buy- of three years, and shall make fine at the King's pleasure. ing of titles, &c. which farther enforces the Statutes against Maintenance, &c.

34 Ed. 1 st. 4. *The King or his Heirs shall have no Tallage or aid without consent of Parliament.*

c. 4.

All Laws, Liberties and Customs confirmed.

A. D. 1307.

In what case it is Felony to break Prison, in what not.

1 Ed. 2. st. 2.
3 Inst. 63, 70.
Kel. 87.
Fitz. Coron.
134.
2. Inst. 599.

CONCERNING prisoners which break prison, our Lord the King willeth and commandeth, that none from henceforth that breaketh prison shall have judgment of life or member for breaking of prison only, except the cause for which he was taken and imprisoned did require such judgment, if he had been convict thereupon according to the law and custom of the realm, albeit in times past it hath been used otherwise.

A. D. 1327.
1. Ed. 3 st. 1. c.
7.

Inquiry shall be made of Gaolers, which by Duress compel Prisoners to Appeal.

22 & 23 Car. 2.
c. 20. sect. 13.
Felons and
prisoners for
debt are not to
be lodged
together.
13 Ed. 1. st. 1.
c. 12.

ITEM, to eschew the damage and destruction that often doth happen by sheriffs, gaolers, and keepers of prisons, within franchise and without, which have pained their prisoners, and by such evil means compel and procure them to become appealers, and to appeal harmless and guiltless people, to the intent to have ransom of such appealed persons, for fear of imprisonment or other cause; (2) the justices of the one bench and of the other, and Justices of Assize and gaol delivery, shall by force of this statute enquire of such compulsions, punishments and procurements, and hear the complaints of all them that will complain in such cases by bill, and shall hear and determine such plaints, as well at the suit of the party, as at the King's suit.

2 Ed. 3. c. 2.

In what cases only pardon of Felony shall be granted.

In what cases
only the King's
pardon shall be
granted.

Chart. de Pard.
499.

6 Ed. 1. stat. 1.
c. 9.

Confirmed by
10 Ed. 3 stat. 1. c. 2.

ITEM, whereas, offenders have been greatly encouraged, because the charters of pardon have been so easily granted in times past, of manslaughter, robberies, felonies and other trespasses against the peace; (2) it is ordained and enacted, that such charter shall not be granted but only where the King may do it by his oath, that is to say, where a man slayeth another in his own defence, or by misfortune.

Enforced by 14 Ed. 3. stat. 1. c. 15. Regist. 309. Br. 10. 2 Salk.

A. D. 1328.

Justices shall have authority to punish breakers of the peace.

2 Ed. 3. c. 6.

ITEM, as to the keeping of the peace in time to come, it is ordained and enacted, that the statutes made in time past, with the statute of Winchester, shall be observed and kept in every point; (2) and where it is contained in the end of the said statute of Winchester, that the Justices assigned shall have power to enquire of defaults, and to report to the King in his Parliament, **and the King to remedy it*, which no man hath yet seen, the same justices shall have power to punish the disobeyers and resisters.

**Not in the Original.*

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The authority of Justices of Assize, Gaol Delivery and of the Peace.

A. D. 1330.

ITEM, it is ordained, that good and discreet persons, other than of the 4 Ed. 3. c. 2.
 places, if they may be found sufficient, shall be assigned in all the shires of 4 Inst. 169.
 England, to take assizes, juries and certifications, and deliver the gaols; Enforced by 20
 (2) and that the said justices shall take the assizes, juries and certifications, Ed. 3. c. 6.
 and deliver the gaols, at the least, three times a year, and more often, if See likewise
 need be. (3) Also there shall be assigned good and lawful men in every qualifications
 county to keep the Peace. (4) And at the time of the assignments, men- Justices of the
 tion shall be made that such as shall be indicted or taken by the said Peace,
 keepers of the Peace, shall not be let to mainprize by the sheriffs, nor by 1 R. 3. c. 3.
 none other ministers, if they be not mainpernable by the law; (5) nor that 4 H. 7. c. 19.
 such as shall be indicted shall not be delivered but at the common law. 1 and 2 P. and
 (6) And the justices assigned to deliver the gaols shall have power to deliver M. c. 13.
 the same gaols of those that shall be indicted before the keepers of the
 peace; (7) and that the said keepers shall send their indictments before the
 justices, and they shall have power to enquire of sheriffs, gaolers and other,
 in whose ward such indicted persons shall be, if they make deliverance, or
 let to mainprize any so indicted, which be not mainpernable, and to punish
 the said sheriffs, gaolers and others, if they do any thing against this Act.

Executors shall have an action of Trespass for a wrong done to their Testator.

4 Ed. 3. c. 7.

See A. A. 1789.

ITEM, whereas, in times past, executors have not had actions for a Rast. 640.
 trespass done to their testators, as of the goods and chattels of the same 1 Ventr. 187.
 testators carried away in their life, and so such trespasses have hitherto 7 H. 4. f. 18.
 remained unpunished; it is enacted, that the executors in such cases shall 11 H. 4. 3.
 have an action against the trespassers, and recover their damages in like Fitz. Bar. 217.
 manner as they, whose executors they be, should have had if they were in Fitz. Execut.
 life. 52, 106.
 Cro. El. 377,
 384.

1 Leon. 193, 194. Regist. 96. 25 Ed. 3. stat. 5. c. 5. extends the remedy to executors of executors; and
 see farther 21 H. 8. c. 4. sect. 1. 43 Eliz. c. 8. sect. 2. 30 Car. 2. stat. 1. c. 7. sect. 2. and 4 and 5 W. and
 M. c. 24. sect. 12.

Sheriffs, Bailiffs of Hundreds, and Escheators, shall have sufficient in the County.

4 Ed. 3. c. 9.

ITEM, it is accorded, that no sheriff, bailiff of hundred, wapentake, nor 9 Ed. 2. stat. 2.
 of franchise, nor under-escheators, shall be from henceforth, except he 5 Ed. 3. c. 4.
 have lands sufficient in the place where they be ministers, whereof to an- 13 and 14 Car.
 swer the King and his people, in case that any man complain against 2. c. 21. who
 them, as it was ordained at another time at the Parliament holden at Lin- shall be sheriffs
 coln, in the time of the King's father that now is, that is to say, in the and of what
 ninth year of his reign. estate they shall be.

Sheriffs and Gaolers shall receive offenders without taking any thing.

4 Ed. 3. c. 10.

ITEM, whereas in times past, sheriffs and gaolers of gaols would not
 receive thieves, persons appealed, indicted, or found with the manner, taken
 and attached by the constables and townships, without taking great fines
 and ransoms of them for their receipt, whereby the said constables and
 townships have been unwilling to take thieves and felons, because of such
 extream charges, and the thieves and the felons the more encouraged to
 offend; (2) it is enacted, that the sheriffs and gaolers shall receive and

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safely keep in prison from henceforth such thieves and felons, by the delivery of the constables and townships, without taking any thing for the receipt. And the justices assigned to deliver the gaol shall have power to hear their complaints that will complain upon the sheriffs and gaolers in such case, and moreover to punish the sheriffs and gaolers if they be found guilty.

4 Ed. 3 c. 11. *Justices of Assizes, &c., shall enquire of Maintainers, Conspirators and Champertors.*

23 Ed. 1. stat. 3. ITEM, whereas, in times past, divers people of the realm, as well great
c. 11. 33 Ed. 1. men as other, have made alliances, confederacies and conspiracies to main-
stat. 3. enforced tain parties, pleas and quarrels, whereby divers have been wrongfully
by 20 Ed. 3. c. 4. And see 32 disinherited, and some ransomed and destroyed, and some for fear to be
H. 8 c. 9. which maimed and beaten, durst not sue for their right, nor complain, nor the
farther enforces the Statutes jurors of inquests give their verdicts, to the great hurt of the people and
against slander of the law and common right; (2) it is accorded, that the justices
maintenance. Adjournment of the one bench and of the other, and the justices of assizes, whensoever
of suits. Regist. they come to hold their sessions or to take inquests upon *Nisi Prius*, shall
186. F. N. B. enquire, hear and determine as well at the King's suit as at the suit of the
115. H. Regist. party of such maintainers, bearers and conspirators, and also of them that
183. Rast. 119. commit champerty, and of all other things contained in the foresaid article,
as well as justices in eyre should do if they were in the same county.—
(3) And that which cannot be determined before the justices of the one
bench or the other, upon the *Nisi Prius*, for shortness of time, shall be ad-
journd into the place whereof they be justices, and there be determined
as right and reason shall require.

A. D. 1331. *None shall be attached or forejudged contrary to the Great Charter or*
5 Ed. 3. c. 9. *the Law.*

9 H. 3. stat. 1. ITEM, it is enacted, that no man from henceforth shall be attached by
c. 29. any accusation, nor forejudged of life or limb, nor his lands, tenements,
3 Bulstr 47. goods nor chattels seized into the King's hands against the form of the
Great Charter and the law of the land.

5 Ed. 3 c. 10. *The punishment of a Juror that is ambidexter and taketh money.*

44 Ed. 3. f. 39. ITEM, it is accorded, that if any juror in assizes, juries or inquests, take
Fitz Decies. of the one party or of the other, and be thereof duly attainted, that here-
tan. 12. after he shall not be put in any assizes, juries or inquests, and nevertheless
Rast. 145. he shall be commanded to prison, and further ransomed at the King's will.
Regist. 189. (2) And the justices before whom such assizes, juries and inquests shall
Enforced and amended by 34 pass, shall have power to enquire and determine according to this statute.
Ed. 3 c. 8. 33 Ed. 3. stat. 1. c. 12. the latter enacting that Juror taking money shall forfeit ten times the sum taken.

5 Ed. 3. c. 11. *Process against those that be appealed, indicted or outlawed in one county, and remain in another.*

ITEM, whereas in times past some persons appealed or indicted of divers felonies in one county, or outlawed in the same county, have been dwelling or received in another county, whereby such felonious persons indicted and outlawed have been encouraged in their mischief, because they may not be attached in another county; (2) it is enacted, that the justices

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assigned to hear and determine such felonies, shall direct their writs to all the counties of England, where need shall be, to take such persons indicted.

Night walkers and suspected persons shall be safely kept.

5 Ed. 3. c. 14.

ITEM, whereas, in the statute made at Winchester in the time of King Edward, grandfather to the King that now is, it is contained, that if any stranger pass by the country in the night, of whom any have suspicion, he shall presently be arrested and delivered to the sheriff, and remain in ward till he be duly delivered. (2) And because there have been divers man-slaughters, felonies and robberies done in times past by people that be called roberdesmen, wastors and draw-latches; (3) it is accorded, that if any may have any evil suspicion of such, be it by day or by night, they shall be incontinently arrested by the constables of the towns. (4) And if they be arrested within franchises, they shall be delivered to the bailiffs of the franchise, and if in guildable, they shall be delivered to the sheriffs and kept in prison till the coming down of the justices assigned to deliver the gaol. (5) And in the mean time the sheriffs or bailiffs of the franchises shall enquire of such arrests, and at the coming of the justices, return their inquests before them with that which they have found, and the cause of the takings, with the bodies, and the justices shall proceed to the deliverance of such persons arrested, according to the law. (6) And in case that the sheriffs or bailiffs of the franchise have not enquired of such arrests, they shall be amerced, and nevertheless the justices shall make enquiry, and further proceed to the deliverance as before is said. 3 Inst. 197.

Pardons shall not be granted contrary to the Statute of 2 Ed. 3. cap. 2.

A. D. 1335.

ITEM, whereas, murderers, robbers and other felons be greatly encouraged to offend, by reason that charters of pardon of manslaughter, robbery, felonies and other trespasses against the peace have been so lightly granted before this time; (2) it is accorded and established by our Lord the King, by the assent of his Prelates, Earls, Barons, and at the request of the said Knights and Commons, that no such charters from henceforth shall be granted by our Lord the King against the form of a statute late made at Northampton, the second year of his reign. 10 Ed. 3. stat. 1. c. 2. 2 Ed. 3. c. 2. Chart. de Pardon, Br. 10. Enforced by 14 Ed. 3. stat. 1. c. 15.

[The Statutes of Jeofail, Misleader and Amendment, are connected with, and illustrative of each other, and may well be inserted under the authority of Sect. 2 of the Act of Assembly of Dec. 12, 1712. They constitute a code, which has served as the basis of the liberal practice adopted in our own courts. They have tended greatly to suppress frivolous and vexatious objections, and place the decision of a cause on its merits. I have therefore supplied the Statutes which Grimke has omitted, relying on the fair and liberal construction of Sect. 2 of Act of 12th Dec. 1712.]

A Record which is defective by misprision of a Clerk shall be amended.

A. D. 1340.

14 E. 3. stat. 1.

ITEM, it is assented, that by the misprision of a clerk in any place wheresoever it be, no process shall be annulled or discontinued, by mistake in writing one syllable or one letter too much or too little; but as soon as the thing is perceived, by challenge of the party, or in other manner, it shall be hastily amended in due form, without giving advantage to the party that challengeth the same because of such misprision. 5 Co. 45. 8 Co. 157. Bro. Amend. 9, 10, 18, 20, 24, 27, 32, 113. Explained by 9 H. 5. stat. 1. c. 4. See farther

8 R. 2. c. 4. 4 H. 6. c. 3. 8 H. 6. c. 12, 15. 27 El. c. 5. and 4 Ann. c. 16.

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A. D. 1334. *The penalty if a Judge or Clerk make a false entry, raise a roll, or change a verdict.*

The penalty if a Judge or clerk make a false entry of a plea, raise a roll or change a verdict.
 3 Ed. 1. c. 29.
 8 H. 6. c. 12.
 10 H. 6. c. 4.
 19 H. 6. c. 9.

ITEM, at the complaint of the said commonalty made to our Lord the King in the Parliament, for that great disherison in times past was done of the people, and may be done by the false entering of pleas, raising of rolls, and changing of verdicts; [2] it is accorded and assented, that if any judge or clerk be of such default (so that by the same default there ensueth disherison of any of the parties) sufficiently convict before the King and his council, by the manner and form which to the same our Lord the King and his council shall seem reasonable, and within two years after such default made, if the party grieved be of full age, and if he be within age, then within two years after that he shall come to his full age, he shall be punished by fine and ransom at the King's will, and satisfy the party. [3] And as to the restitution of the inheritance desired by the said commons, the party grieved shall sue by writ of error, or otherwise, according to the law, if he see it expedient for him.

A. D. 1420.
 9 H. 5. st. 1. c. 4.

The Justices may amend defaults in Records or Process after Judgment given.

14 Ed. 3. stat. 1. c. 6.
 8 R. 2. c. 4.
 Dyer 312. 5. Co. 45.
 Made perpetual by 4 H. 6. c. 3.
 8 H. 6. c. 12.
 15. See farther 27 El. c. 5. and 4 Ann. c. 16.

ITEM, whereas, it was ordained and established in the Statute made the 14th year of King Edward the 3rd, after the conquest, that for misprision of the Clerk in any place wheresoever it be, the process of the plea should not be avoided nor discontinued, by mistaking in writing one letter or syllable too much or too little, but as soon as the thing is perceived, by challenge of the party or in other manner, it should hastily be amended in a due form, without giving advantage to the party that challengeth the same, because of such misprision; the King considering the diversity of opinions which have been upon the said Statute, and to put the thing in more open knowledge, hath declared and ordained at this time, by authority of this present Parliament, that the Justices before whom such plea or record is made, or shall be depending, as well by adjournment as by way of error, or otherwise, shall have power and authority to amend such record and process, as afore is said, according to the form of the same statute, as well after judgment in any such plea, record or process given, as before judgment given in any such plea, record or process, as long as the same record and process is before them, in the same manner as the Justices had power to amend such record and process before judgment given, by force of the said statute made in the time of the said King Edward.

A. D. 1425.
 4 H. 6. c. 3.
 8 R. 2. c. 4.

Justices in certain cases may amend their Records according to former Statutes.

9 H. 5. c. 4.
 5 Co. 45. 8 Co. 157. Dyer 260. 342.
 A confirmation of the statute of 14 Ed. 3. stat. 1. c. 6. and 9 H. 5. c. 4. authorising justices to amend records. See farther 8 H. 6. c. 12. and 15.
 10 H. 6. c. 4.
 18 H. 6. c. 9
 5 El. c. 23. 27.

ITEM, whereas, at the Parliament holden at Westminster the 2d of May, the 9th year of the reign of King Henry, father of our Lord the King that now is, it was rehearsed, how that at the Parliament holden at Westminster the xiv. year of King Edward the third, it was ordained, that for misprision of a clerk, in whatsoever place it be, no process or plea should be undone nor discontinued, by oversight in writing a letter or syllable too much or too little, but as soon as the thing were perceived by challenge of the parties, or in other manner, it should be hastily amended in due form, without giving advantage to the party that challengeth the same, because of such misprision; the said late King Henry, considering the diversities of opinions which men had upon the said statute, and to put the thing in more open knowledge, did declare and ordain by authority of the

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said Parliament holden the said ninth year, that the justices before whom such plea or record is made, or shall be depending, as well by adjournment, as by way of error or otherwise, shall have power and authority to amend such record and process, as well after judgment given as before, by force of the said statute made in the time of the said King Edward, which ordinance should endure till the next Parliament, which should be first holden after the return of the said King Henry the father, into England, from beyond the Sea, and which now is determined by the death of the said late King Henry the father. Our sovereign Lord, by the advice and assent aforesaid, hath ordained and established, that the said statute and the effect of the same, made the said ninth year, shall hold strength, force and effect, in every record and process of the same, as well after judgment given upon a verdict passed, as upon a matter in law pleaded, as a statute available and effectual in law to endure forever. Provided always, that this statute do not extend to records and processes in the parts of Wales, nor to records and processes whereby any person is or shall be outlawed at any man's suit.

El. c. 5. and 4.
Ann. c. 16.
what defects
may be
amended and
what not.

No Judgment or Record shall be reversed for any Writ, Process, &c. rased. What defects in Records may be amended by the Judges, and what not.

A. D. 1429.
8 H. 6. c. 12.

ITEM, our Lord the King hath ordained and established by the authority of this present Parliament, that for error assigned, or to be assigned, in any record, process, or warrant of attorney, original writ or judicial, panel or return, in any places of the same rased or interlined, or in any addition, subtraction, or diminution of words, letters, titles, or parcel of letters, found in any such record, process, warrant of attorney, writ, panel, or return, which rasings, interlinings, addition, subtraction or diminution, at the discretion of the King's judges of the courts and places in which the said records or process by writ of error, or otherwise, be certified, do appear suspected, no judgment nor record shall be reversed nor annulled.

II. And that the King's Judges of the courts and places in which any record, process, word, plea, warrant of attorney, writ, panel or return, which for the time shall be, shall have power to examine such records, process, words, pleas, warrants of attorney, writs, panels, or return, by them and their clerks, and to reform and amend (in affirmance of the judgments of such records and processes) all that which to them in their discretion seemeth to be misprision of the clerks in such record, processes, word, plea, warrant of attorney, writ, panel, and return; [2] except appeals, indictments of treason and of felonies, and the outlawries of the same, and the substance of the proper names, surnames and additions left out in original writs and writs of exigent, according to the statute another time made the **first* year of King Henry, father to our Lord the King that now is, and in other writs containing proclamation; [3] so that by such misprision of the clerk no judgment shall be reversed nor annulled. [4] And if any record, process, writ, warrant of attorney, return or panel be certified defective, otherwise than according to the writing which thereof remaineth in the treasury, courts or places from whence they be certified, the parties in affirmance of the judgments of such record and process shall have advantage to alledge, that the same writing is variant from the said certificate, and that found and certified, the same variance shall be by the said Judges reformed and amended according to the first writing.

No judgment
nor record shall
be reversed nor
avoided for any
writ, return,
process, &c.
rased or
interlined.
Dyer 105, 180,
225, 232, 260,
342.
5 Co. 45.
8 Co. 138.
Cro Jac. 119.
Cro. Car. 271.
The judges
may reform all
defects in
records which
be misprision of
the Clerk.
8 H. 6. c. 15.
4 Mod. 6, 247.
What defects
in records may
not be
amended.
*Serond.
Variance
alleged
between a
record and the
certificate
thereof shall be
by the Judges
amended.
8 H. 6. c. 12.
Imbeziling of
a record
whereby any
judgment shall
be reversed, is
Felony.
8 R. 2. c. 4.

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8 Co. 160.
2 Roll. 44.
A record
exemplified
under the Great
Seal, and
inrolled in the
Chancery, not
to be reversed.
See 4 Ann. c.
16. What
defects may be
amended and
what not.

III. And moreover it is ordained, that if any record, or parcel of the same writ, return, panel, process, or warrant of attorney, in the King's Courts of Chancery, Exchequer, the one bench or the other, or in his treasury, be willingly stolen, taken away, withdrawn, or avoided by any clerk, or by other person, because whereof any judgment shall be reversed, that such stealer, taker away, withdrawer or avoider, their procurators, counsellors and abettors, thereof indicted, and by process thereupon made thereof duly convict by their own confession, or by inquest to be taken of the lawful men, whereof the one half shall be of the men of any court of the same courts, and the other half of other, shall be judged for felons, and shall incur the pain of felony. [2] And that the Judges of the said courts of the one bench or of the other, have power to hear and determine such defaults before them, and thereof to make due punishment as afore is said.

IV. Provided always, that if any such record, process, writ, or warrant of attorney, panel, or return, or parcel of the same, be now, or hereafter shall be exemplified in the King's Chancery, under the great seal, and such exemplification there of record inrolled without any rasing in the same place in the exemption and the inrollment of the same, that another time for any error assigned, or to be assigned in the said record, process, writ, warrant of attorney, panel, or return, in any letter, word, clause, or matter of the same varying, or contrary to the said exemplification and the inrollment, there shall be no judgment of the said records and process reversed or adnulled.

8 H. 6. c. 15.

The Justices may in certain cases amend defaults in Records.

8 Co. 162.
1 Roll. 447.
Processes in
Wales and
outlawries
8 H. 6. c. 12.
and 4 Ann. c. 16.
What defects
may be
amended and
what not.
8 R. 2. c. 4.

ITEM, it is ordained and established, that the King's justices, before whom any misprision or default is or shall be found, be it in any records and processes which now be, or shall be, depending before them, as well by way of error as otherwise, or in the returns of the same, made or to be made by sheriffs, coroners, bailiffs of franchises, or any other, by misprision of the clerks of any of the said courts of the King, or by misprision of the sheriffs, under-sheriffs, coroners, their clerks, or other officers, clerks, or other ministers whatsoever, in writing one letter or one syllable too much or too little, shall have power to amend such defaults and misprisions, according to their discretion, and by examination thereof by the said justices, to be taken where they shall think needful. [2] Provided that this statute do not extend to records and processes in the parts of Wales, [3] nor to the processes and records of outlawries of felonies and treasons, and the dependencies thereof.

A. D. 1576.

An Act for reformation of Jeofails.

18 Eliz. c. 14.
This Act
extended to
Writs of
Mandamus, &c.
by 9 Ann. c.
20.
14 Ed. 3. stat. 1.
c. 6.
9 H. 5. c. 4.
4 H. 6. c. 3. and
8 H. 6. c. 12
and 15
After verdict
given in a court

BE it enacted, that if any verdict of twelve men or more shall be hereafter given in any action, suit, bill, plaint or demand in any court of record, the judgment thereupon shall not be stayed or reversed by reason of any default in form, or lack of form, touching false latin or variance from the register, or other defaults in form, in any writ, original or judicial, count, declaration, plaint, bill, suit or demand, or for want of any writ, original or judicial, or by reason of any imperfect or insufficient return of any sheriff or other officer, or for want of any warrant of attorney, or by reason of any manner of default in process, upon or after any aid, prior or voucher, nor any such record of judgment after verdict to be given hereaf-

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ter, shall be reversed for any the defects or causes aforesaid; any law, of record, there shall be no stay of judgment, or reversing statute or usage to the contrary notwithstanding.

thereof for want of form, false Latin, variance, &c. When an Attorney shall deliver his warrant of Record. 1 Bulet. 130, 152. 2 Bulet. 67. 3 Bulet. 224, 223, 278, 301. Moor 402. pl. 657, 465, pl. 657. 1 Leon. 30, 175, 339. 2 Leon. 74. March. 121. Savill 37, 130. 1 Roll. 23, 295, 333. 2 Roll. 124, 161, 163, 247, 255, 285, 392. Godholt 107. pl. 127. Goldsb. 126, 188. Hob. 49, 64, 70. Jones 301. 5 Co. 35, 36, 37, 41. 8. Cro. El. 57, 339, 574. Cro. Jac. 183, 236, 674. Cro. Car. 92, 223, 278, 232, 295. Hob. 33. To what things this statute shall not extend. 21 Jac. 1. c. 13. 16 and 17 Car. 2. c. 8. 4 and 5 Ann. c. 16 and A. A. No. 597.

II. Provided, that this Act, or any thing therein contained, shall not extend to any writ, declaration or suit of appeal of felony or murder, nor to any indictment or presentment of felony, murder, treason or other matter, nor to any process upon any of them, nor to any writ, bill, action or information upon any popular or penal statute; any thing aforesaid to the contrary notwithstanding.

An Act for furtherance of Justice in case of Demurrer and Pleadings. A. D. 1585.

FORASMUCH as excessive charges and expences, and great delay and hinderance of justice hath grown in actions and suits between the subjects of this realm, by reason that upon some small mistaking or want of form in pleading, judgments are often reversed by writs of error, and oftentimes upon demurrers in law given otherwise than the matter in law and very right of the cause doth require, whereby the parties are constrained either utterly to lose their right, or else after long time and great trouble and expences, to renew again their suits: for remedy whereof, be it enacted, that from henceforth, after demurrer joined and entered in any action or suit in any court of record within this realm, the judges shall proceed and give judgment according as the very right of the cause and matter in law shall appear unto them, without regarding any imperfection, defect or want of form in any writ, return, plaint, declaration or other pleading, process or course of proceeding whatsoever, except those only which the party demurring shall specially and particularly set down and express, together with his demurrer; and that no judgment to be given shall be reversed by any writ of error, for any such imperfection, defect or want of form as is aforesaid, except such only as is before excepted.

835. 1 Roll 112. Goldsb. 35. pl. 10. Savil 78, 87. Cro. El. 232, 233, 588. Hob. 232. 10 Co. 88.

II. And after demurrers joined and entered, the court where the same shall be, shall and may by virtue of this Act from time to time amend all and every such imperfections, defects and wants of form as is before mentioned, other than those only which the party demurring shall specially and particularly express and set down, together with his demurrer as is aforesaid.

III. Provided, that this Act or any thing therein contained, shall not extend to any writ, declaration or suit of appeal of felony or murder, nor to any indictment or presentment of felony, murder, treason or other matter, nor to any process upon any of them, nor to any writ, bill, action or information upon any popular or penal statute; any thing aforesaid to the contrary notwithstanding. [This Act extended to writs of mandamus, &c. by 9 Anne, c. 20.]

A. D. 1712

*English Statutes Made of Force.**An Act for the further reformation of Jeofails.*

A. D. 1623.
 21 J. 1. c. 13.
 14 Ed. 3. st. 1.
 c. 6.
 9 H. 5. c. 4.
 This Act
 extended to
 Writs of
 Mandamus,
 &c. by 9 Anne
 c. 20. sect. 7.
 The defects of
 the Statutes of
 32 H. 8. c. 30.
 and 18 El. c.
 14. Godbolt 392
 pl. 469, 437.
 pl. 502.
 Divers Jeofails
 in suits of law
 prevented and
 reformed.
 4 Ann. c. 16.
 Cro. Car. 165,
 189, 203, 278,
 312, 430.
 Alleyn 64.
 Nels. V. 2. 943.
 Certain cases
 excepted.
 See 13 and 17.
 Car. 2. c. 8.
 and A. A. No.
 597.

WHEREAS, in the 32d year of the reign of Henry the 8th, of famous memory, a good and profitable Law, intituled an Act concerning mispleading, jeofails and attornies, was made and enacted; [2] and likewise another good and profitable law was made in the 18th year of the reign of Queen Elizabeth, intituled an Act for reformation of Jeofails; [3] by which laws many delays of judgments were prevented, and yet notwithstanding, many things have and daily do fall out, not yet provided for, nor remedied for by the laws before mentioned.

II. Be it therefore enacted, that if any verdict of twelve men or more shall hereafter be given for the plaintiff or demandant, or for the defendant or tenant, bailiff in assize, vouchee, pray in aid, or tenant by receipt, in any action, suit, bill, plaint or demand in any court of record, the judgment thereupon shall not be stayed or reversed by reason of any variance in form only, between the original writ or bill, and the declaration, plaint or demand; or for lack of any averment, or any life or lives of any person or persons, so as upon examination the said person be proved to be in life; or by reason that the *venire facias*, *habeas corpora* or *distringas* is awarded to a wrong officer, upon any insufficient suggestion; or by reason the *visne* is in some part misawarded or sued out of more places, or of fewer places, than it ought to be, so as some one place be right named; or by reason that any of the same jury which tried the said issue is misnamed, either in the surname or addition, in any of the said writs, or in any return upon any of the said writs, so as upon examination it be proved to be the same man that was meant to be returned; or by reason that there is no return upon any of the said writs, so as a pannel of the names of Jurors be returned and annexed to the said writ; or for that the sheriff's name or other officers name having the return thereof, is not set to the return of any such writ, so as upon examination it be proved that the said writ was returned by the sheriff or under-sheriff, or any such other officer; or by reason that the plaintiff in an *ejectione firmæ*, or in any personal action or suit, (being an infant under the age of one and twenty years) did appear by attorney therein, and the verdict pass for him; any law, custom or usage to the contrary notwithstanding.

III. Provided, that this Act, or any thing therein contained, shall not extend to any writ, declaration or suit of appeal of felony or murther, nor to any indictment or presentment of felony, murther or treason, nor to any process upon any of them, nor to any writ, bill, action or information upon any popular or penal statutes; any thing therein contained to the contrary notwithstanding.

A. D. 1706.

An Act for the Amendment of the Law and the better advancement of Justice.

By 9 Anne,
 c. 20. s. 7.
 this statute is
 extended to
 writs of Man-
 damus and
 informations in
 nature of Quo
 Warranto.

FOR the amendment of the law in several particulars, and for the easier, speedier, and better advancement of justice, be it enacted by the Queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That from and after the first day of Trinity term, which shall be in the year of our Lord one thousand seven hundred and six, where any demurrer shall be joined, and entered

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in any action or suit in any court of record within this realm, the judges shall proceed and give judgment, according as the very right of the cause and matter in law shall appear unto them, without regarding any imperfection, omission, or defect, in any writ, return, plaint, declaration, or other pleading, process, or course of proceeding whatsoever, except those only which the party demurring shall specially and particularly set down and express, together with his demurrer, as causes of the same, notwithstanding that such imperfection, omission, or defect might have heretofore been taken to be matter of substance, and not aided by the statute made in the twenty-seventh year of Queen Elizabeth, intituled, An Act for the furtherance of justice in case of Demurrer and Pleadings, so as sufficient matter appear in the said pleadings, upon which the court may give judgment according to the very right of the cause; and therefore from and after the said first day of Trinity term, no advantage or exception shall be taken of or for an immaterial travers; or of or for the default of entering pledges upon any bill or declaration; or of or for the default of alledging the bringing into court any bond, bill, indenture, or other deed whatsoever mentioned in the declaration or other pleading; or of or for the default of alledging of the bringing into court letters testamentary, or letters of administration; or of or for the omission of *Vi & Armis & contra pacem*, or either of them; or of or for the want of averment of *Hoc paratus est verificare*, or, *Hoc paratus est verificare per Recordum*; or of or for not alledging *prout patet per Recordum*; but the court shall give judgment according to the very right of the cause, as aforesaid, without regarding any such imperfections, omissions, and defects, or any other matter of like nature, except the same shall be specially and particularly set down and shewn for cause of demurrer.

From Trinity term, 1706, judges shall give judgment on demurrer, &c. without regarding any defect in writ, &c.
Exception.

27 Eliz. c. 5.

II. *And be it further enacted* by the authority aforesaid, That from and after the said first day of Trinity term, all the statutes of jeofails shall be extended to judgments which shall at any time afterwards be entred upon confession, *Nihil dicit*, or *Non sum informatus*, in any court of record; and no such judgment shall be reversed, nor any judgment upon any writ of enquiry of damages executed thereon be staid or reversed, for or by reason of any imperfection, omission, defect, matter or thing whatsoever, which would have been aided and cured by any of the said statutes of jeofails in case a verdict of twelve men had been given in the said action or suit, so as there be an original writ or bill, and warrants of attorney duly filed, according to the law as is now used.

All statutes of jeofails to be extended to judgments upon *Nihil dicit*, &c.
No such judgment to be reversed.

III. *Provided always*, and be it enacted by the authority aforesaid, That the attorney for the plaintiff or demandant in any action or suit, shall file his warrant of attorney with the proper officer of the court where the cause is depending, the same term he declares; and the attorney for the defendant or tenant shall file his warrant of attorney as aforesaid, the same term he appears, under the penalties inflicted upon attorneys by any former law for default of filing their warrants of attorney.

When warrants of attorney shall be filed.

IV. *And be it further enacted* by the authority aforesaid, That from and after the said first day of Trinity term, it shall and may be lawful for any defendant or tenant in any action or suit, or for any plaintiff in replevin, in any court of record, with the leave of the same court, to plead as many several matters thereto, as he shall think necessary for his defence.

Defendant, &c. may plead several matters

V. *Provided nevertheless*, That if any such matter shall upon a demurrer joyned, be judged insufficient, costs shall be given at the discretion of the court; or if a verdict shall be found upon any issue in the said cause for

Proviso touching costs.

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the plaintiff or demandant, costs shall be also given in like manner, unless the judge, who tried the said issue, shall certify, that the said defendant, or tenant, or plaintiff in replevin, had a probable cause to plead such matter which upon the said issue shall be found against him.

Venire facias
how to be
awarded.

VI. *And whereas* great delays do frequently happen in trials, by reason of challenges to the arrays of panels of jurors, and to the polls, for default of hundredors : for prevention thereof for the future, be it enacted by the authority aforesaid, That from and after the said first day of Trinity term, every *Venire facias* for the trial of any issue, in any action or suit in any of her Majesty's courts of record at Westminster, shall be awarded of the body of the proper county where such issue is triable.

Not to extend
to writs of ap-
peal of felony,
or murder, &c.

VII. *Provided always*, and be it enacted by the authority aforesaid, That nothing in this Act before contained, shall extend to any writ, declaration, or suit of appeal of felony or murder, or to any indictment or presentment of treason, felony, or murder, or other matter, or to any process upon any of them, or to any writ, bill, action, or information upon any penal statute.

Where jurors
are to view
lands, &c.
court may
order special
writs of Distrin-
gas or Habeas
Corpora.

VIII. *And be it further enacted* by the authority aforesaid, That from and after the said first day of Trinity term, in any actions brought in any of her Majesty's courts of record at Westminster, where it shall appear to the court in which such actions are depending, that it will be proper and necessary, that the jurors who are to try the issues in any such actions, should have view of the messuages, lands, or place in question, in order to their better understanding the evidence that will be given upon the trials of such issues, in every such case the respective courts in which such actions shall be depending, may order special writs of *Distringas* or *Habeas Corpora* to issue, by which the sheriff, or such other officer to whom the said writs shall be directed, shall be commanded to have six out of the first twelve of the jurors named in such writs, or some greater number of them, at the place in question, some convenient time before the trial, who then and there shall have the matters in question shewn to them by two persons in the said writs named, to be appointed by the court; and the said sheriff, or other officer, who is to execute the said writs, shall, by a special return upon the same, certify that the view hath been had according to the command of the said writs.

All grants and
conveyances,
&c. to be
good, without
attornment of
tenants.

IX. *And be it further enacted* by the authority aforesaid, That from and after the said first day of Trinity term, all grants or conveyances thereafter to be made, by fine or otherwise, of any manors or rents, or of the reversion or remainder of any messuages or lands, shall be good and effectual, to all intents and purposes, without any attornment of the tenants of any such manors, or of the land out of which such rent shall be issuing, or of the particular tenants upon whose particular estates any such reversions or remainders shall and may be expectant or depending, as if their attornment had been had and made.

Proviso.

X. *Provided* nevertheless, That no such tenant shall be prejudiced or damaged by payment of any rent to any such grantor or conusor, or by breach of any condition for non-payment of rent, before notice shall be given to him of such grant by the conusee or grantee.

No dilatory
plea to be re-
ceived unless
on affidavit.

XI. *And be it further enacted* by the authority aforesaid, That from and after the said first day of Trinity term, no dilatory plea shall be received in any court of record, unless the party offering such plea, do, by affidavit, prove the truth thereof, or shew some probable matter to the court to induce them to believe that the fact of such dilatory plea is true.

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XII. *And be it further enacted* by the authority aforesaid, That from and after the said first day of Trinity term, where any action of debt shall be brought upon any single bill, or where action of debt, or *Scire facias*, shall be brought upon any judgment, if the defendant hath paid the money due upon such bill or judgment, such payment shall and may be pleaded in bar of such action or suit; and where an action of debt is brought upon any bond which hath a condition or defeazance to make void the same upon payment of a lesser sum at a day or place certain, if the obligor, his heirs, executors, or administrators, have, before the action brought, paid to the obligee, his executors or administrators, the principal and interest due by the defeazance or condition of such bond, though such payment was not made strictly according to the condition or defeazance, yet it shall and may nevertheless be pleaded in bar of such action, and shall be as effectual a bar thereof, as if the money had been paid at the day and place, according to the condition or defeazance, and had been so pleaded.

Action of debt brought on single bill, or judgment, after money paid, such payment may be pleaded in bar.

The like on bonds.

XIII. *And be it further enacted* by the authority aforesaid, That if at any time pending an action upon any such bond with a penalty, the defendant shall bring into the court where the action shall be depending, all the principal money, and interest due on such bond, and also all such costs as have been expended in any suit or suits in law or equity upon such bond, the said money so brought in shall be deemed and taken to be in full satisfaction and discharge of the said bond, and the court shall and may give judgment to discharge every such defendant of and from the same accordingly.

Principal and interest on bonds paid in court, &c. court may discharge defendant.

XIV. *And whereas*, by an Act of Parliament made in the twenty-ninth year of King Charles the Second, intituled an Act for prevention of Frauds and Perjuries, it is enacted, That no nuncupative will shall be good, where the estate thereby bequeathed shall exceed the value of thirty pounds, that is not proved by the oaths of three witnesses, at the least, that were present at the making thereof, it is hereby declared, That all such witnesses as are and ought to be allowed to be good witnesses upon trials at law, by the laws and customs of this realm, shall be deemed good witnesses to prove any nuncupative will, or any thing relating thereunto.

Nuncupative wills. 29 Car. 2. c. 3.

XV. *And whereas*, it hath been doubted whether, since the making of the said last mentioned Act of Parliament, the declarations or creations of uses, trusts, or confidences, of any fines or common recoveries manifested by deed made after the levying or suffering of such fines or recoveries, are good and effectual in law; it is hereby declared, That all declarations, or creations of uses, trusts, or confidences, of any fines or common recoveries of any lands, tenements, or hereditaments, manifested and proved, or which hereafter shall be manifested and proved, by any deed already made, or hereafter to be made, by the party who is by law enabled to declare such uses or trusts, after the levying or suffering of any such fines or recoveries, are and shall be as good and effectual in the law, as if the said last mentioned Act had not been made.

Declarations of uses, trusts, &c. of fines or recoveries.

29 Car. 2. c. 3.

XVI. *And be it further enacted* by the authority aforesaid, That from and after the said first day of Trinity term, no claim or entry to be made of or upon any lands, tenements, or hereditaments, shall be of any force or effect to avoid any fine levied or to be levied with proclamations, &c. unless an action be commenced in one year after such entry made.

No claim or entry to be of force to avoid fine levied with proclamations, &c. unless an action be commenced in one year after such entry made.

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21 Jac. 1. c. 16.

Wales, of any lands, tenements, or hereditaments, or shall be a sufficient entry or claim within the statute made in the twenty-first year of King James the First, intituled an Act for limitation of actions, and for avoiding of suits in law, unless upon such entry or claim, an action shall be commenced within one year next after the making of such entry or claim, and prosecuted with effect.

Seamen's wages.

XVII. *And be it further enacted* by the authority aforesaid, That all suits and actions in the court of admiralty for seamen's wages, which shall become due after the said first day of Trinity term, shall be commenced and sued within six years next after the cause of such suits or actions shall accrue, and not after.

Proviso in case of nonage, feme covert, or Non compos mentis, &c.

XVIII. *Provided* nevertheless, and be it further enacted, That if any person or persons, who is or shall be intitled to any such suit or action for seamen's wages, be or shall be, at the time of any such cause of suit or action accrued, fallen or come, within the age of twenty-one years, feme covert, *non compos mentis*, imprisoned, or beyond the seas, that then such person or persons shall be at liberty to bring the same actions, so as they take the same within six years next after their coming to, or being of full age, discover, of sane memory, at large, and returned from beyond the seas.

Action against persons gone beyond the seas, may be brought after their return.

XIX. *And be it further enacted* by the authority aforesaid, That if any person or persons, against whom there is or shall be any such cause of suit or action for seamen's wages, or against whom there shall be any cause of action of trespass, detinue, actions sur trover, or replevin for taking away goods or cattle, or of action of account, or upon the case, or of debt grounded upon any lending or contract without specialty, of debt for arrearages of rent, or assault, menace, battery, wounding, and imprisonment, or any of them, be or shall be, at the time of any such cause of suit or action given or accrued, fallen, or come, beyond the seas, That then such person or persons, who is or shall be entitled to any such suit or action, shall be at liberty to bring the said actions against such person and persons, after their return from beyond the seas, so as they take the same after their return from beyond the seas, within such times as are respectively limited for the bringing of the said actions before by this Act, and by the said other Act made in the one and twentieth year of the reign of King James the First.

Proviso.

21 Jac. 1. c. 16.

Bail bond taken by sheriff, &c. may be assigned to plaintiff.

XX. *And be it enacted* by the authority aforesaid, That if any person or persons shall be arrested from and after the said first day of Trinity term, by any writ, bill, or process, issuing out of any of her Majesty's courts of record at Westminster, at the suit of any common person, and the sheriff or other officer taketh bail from such person, against whom such writ, bill, or process is taken out, the sheriff or other officer, at the request and costs of the plaintiff in such action or suit, or his lawful attorney, shall assign to the plaintiff in such action the bail bond, or other security taken from such bail, by endorsing the same, and attesting it under his hand and seal in the presence of two or more credible witnesses, which may be done without any stamp; provided the assignment so endorsed be duly stamped before any action be brought thereupon; and if the said bail bond or assignment, or other security taken for bail, be forfeited, the plaintiff in such action, after such assignment made, may bring an action and suit thereupon in his own name, and the court where the action is brought, may by rule or rules of the same court, give such relief to the plaintiff and defendant in the original action, and to the bail, upon the said bond or other

Proviso.

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security taken from such bail, as is agreeable to justice and reason, and that such rule or rules of the said court shall have the nature and effect of a defeazance to such bail bond, or other security for bail.

XXI. *And be it further enacted* by the authority aforesaid, That all warranties which shall be made after the said first day of Trinity term, by any tenant for life, of any lands, tenements, or hereditaments, the same descending or coming to any person in reversion or remainder, shall be void and of none effect; and likewise all collateral warranties, which shall be made after the said first day of Trinity term, of any lands, tenements or hereditaments, by any ancestor who has no estate of inheritance in possession in the same, shall be void against his heir.

Warranty by tenant for life void.

XXII. *And be it further enacted* by the authority aforesaid, That no subpoena, or any other process for appearance, do issue out of any court of equity, till after the bill is filed with the proper officer in the respective courts of equity, except in cases of bills for injunctions to stay wastes, or stay suits at law commenced, and a certificate thereof brought to the subpoena office, or to him who usually makes out subpoenas or other process in the several courts of equity, under the hand of the six clerk, or other clerk or officer who usually files bills in equity, for which certificate he shall receive no fee.

No subpoena to issue till after bill filed.

Exception.

XXIII. And for the better preventing vexatious suits in courts of equity; *Be it further enacted*, That upon the plaintiff's dismissing his own bill, or the defendant's dismissing the same for want of prosecution, the plaintiff in such suit shall pay to the defendant or defendants, his or their full costs, to be taxed by a master: and that no copy, abstract, or tenor of any bill in equity, do go with the dedimus or commission for taking the defendant's answer; but in lieu and recompence thereof, the sworn clerks of the court of chancery shall take to their own use, in all causes, the whole term fee of three shillings and four pence, and also the whole fee or fees of and for all small writs made by the said sworn clerks.

On dismissing bills in equity, plaintiff or defendant to pay full costs.

XXIV. *And be it further enacted* by the authority aforesaid, That from and after the said first day of Trinity term, this Act and all the statutes of jeofails shall extend to all suits in any of her Majesty's courts of record at Westminster, for recovery of any debt immediately owing, or any revenue belonging to her Majesty, her heirs or successors; and shall also extend to all courts of record in the counties palatine of Lancaster, Chester, and Durham, and the principality of Wales, and to all other courts of record within this kingdom.

Act to extend to all suits for the King's debts, &c.

Rex v. Phillips in Scacc. Hil. 1746.

XXV. And for the preventing great vexation from suing out defective writs of error; be it enacted by the authority aforesaid, That upon the quashing any writ of error to be sued out after the said first day of Trinity term, for variance from the original record, or other defect, the defendant in such error shall recover against the plaintiff or plaintiffs, issuing out such writ, his costs, as he should have had if the judgment had been affirmed, and to be recovered in the same manner.

On quashing writ of error defendant to have costs.

XXVI. *And whereas* great trouble and expence is frequently occasioned to the widows and orphans of persons dying intestate, to monies or wages due for work done in her Majesty's yards and docks, by disputes happening about the authority of granting probat of the wills, and letters of administration of the goods and chattels of such persons, and for preventing such unnecessary trouble and expence; be it therefore enacted by the authority aforesaid, That the power of granting probats of the wills, and letters of administration of the goods and chattels of such person and per-

Probats of wills and administrations.

A. D. 1712.

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Bona notabilia.

sons respectively, is, and is hereby declared to be, in the Ordinary of the diocese, or such other persons, to whom the ordinary power of probat of wills, or granting letters of administration do belong, where such person and persons shall respectively die; and that the salary, wages, or pay due to such person or persons from the Queen's majesty, her heirs or successors, for work done in any of the yards or docks, shall not be taken or deemed to be bona notabilia, whereby to found the jurisdiction of the prerogative court.

Actions of
account may
be brought
against execu-
tors of guardian,
bailiff, &c.
Auditors to
examine the
parties on oath.

XXVII. *And be it enacted* by the authority aforesaid, That from and after the said first day of Trinity term, actions of account shall and may be brought and maintained against the executors and administrators of every guardian, bailiff, and receiver; and also by one joint tenant, and tenant in common, his executors and administrators, against the other, as bailiff, for receiving more than comes to his just share or proportion, and against the executor and administrator of such joint tenant, or tenant in common; and the auditors appointed by the court, where such action shall be depending, shall be, and are hereby empowered to administer an oath, and examine the parties touching the matters in question, and for their pains and trouble in auditing and taking such account, have such allowance as the court shall adjudge to be reasonable, to be paid by the party on whose side the balance of the account shall appear to be.

A. D. 1340.
14 Ed. 3. stat. 1.
c. 15.
6 Ed. 1. c. 9.
2 Ed. 3. c. 2.
6 Co. 13.
10 Ed. 3. stat. 1.
c. 2.

No pardon for Felony but where the King may do it saving his oath.

ITEM, because by divers statutes made before this time in divers Parliaments, it was assented, that no charter of pardon of the death of a man should be granted by the King, but in case where he may do it keeping the oath of his Crown; which statutes have not been holden, but charters have been granted without number to divers felons and manslaughterers, to the evil example and fear of good people and lawful, whereby thieves, felons and offenders be comforted to do their robberies and manslaughter, and the same do from day to day, and the more be encouraged to do the same, because of hope easily to have their charters of pardon; [2] it is assented, established and accorded, that no charter of pardon of the death of a man, nor of other felony, shall be from henceforth granted to any man, but in case where the King may the same do, saving the oath of his Crown, as it is contained in the statutes made before this time; [3] and if any charter be from henceforth granted against the said statutes, the same shall be holden for none.

A. D. 1346.
20 Ed. 3. c. 4.
15 H. 7. f. 2.
Regist. 182, 189.
Rast. 119, 427.
&c.
28 Ed. 1. stat. 3.
c. 11.
33 Ed. 1. stat. 3.
4 Ed. 3. c. 11.
and 32 H. 8. c.
9. which inflict
penalties on
Maintenance.

None shall maintain any quarrels but their own.

ITEM, we have commanded and utterly defended that none of our house, nor of them that be about us, nor other, which be towards our dear beloved companion the Queen, or our son Prince of Wales, or towards our courts, nor prelates, earls, barons, nor other great nor small of the land, of what estate or condition they be, shall not take in hand quarrels other than their own, nor the same maintain by them nor by other, privily nor apertly, for gift, promise, amity, favour, doubt nor fear, nor for none other cause, in disturbance of law and hinderance of right, upon the pains aforesaid; but that every man may be free to sue for and defend his right in our courts and elsewhere, according to the law. [2] And we have straitly commanded our said son, and divers earls and other great men, being

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before us, that they on their behalf shall do to be kept this ordinance without default, and that they suffer none which be towards them to attempt against this ordinance by any way.

Justices of Assise shall enquire of and punish the Misdemeanour of Officers and other Offenders. 20 Ed. 3. c. 6.

ITEM, We will and have ordained, That the Justices assigned to take assises shall have commissions sufficient to enquire in their sessions of sheriffs, escheators, bailiffs of franchises, and their under ministers, and also of maintainors, common embraceors, and jurors in the country, and of the gifts, rewards, and other profits, which the said ministers do take of the people to execute their office, and that which pertaineth to their office, and for making the array of pannels, putting in the same suspect jurors, and of evil fame, and of that maintainors, embraceors, and jurors, do take gifts and rewards of the parties, whereby losses and damages do very grievously come daily to the people, in subversion of the law, and disturbance of common right, and to punish all them which thereof shall be found guilty, according as law and reason requireth, as well at our suit as at the parties.

A Declaration which Offences shall be adjudged Treason.

A. D. 1350.
25 Ed. 3. st. 5 c. 3.

See Sedition Act, 11th April 1776.

No Indictor shall be put upon the Inquest of the Party indicted. 25 Ed. 3. st. 5. c. 3.

ITEM, it is accorded, That no indictor shall be put in inquests upon Bro. Chall. 42, deliverance of the inditees of felonies or trespass, if he be challenged for 101, 120, 142, 166. that same cause by him which is so indicted.

Executors of Executors shall have the Benefit and Charge of the first Testator. 25 Ed. 3. st. 5. c. 6.

See A. A. 1789.

Executors of Executors shall have actions of debts, accompts, and of goods carried away of the first testators, (2) and execution of statutes merchants and recognizances made in Court of Record to the first testator, in the same manner as the first testator should have had if he were in life, as well of actions of the time past as of the time to come, in all cases where judgment is not yet given betwixt such executors*; (3) and that the same executors of executors shall answer to other of as much as they have recovered of the goods of the first testators, as the first executors should do if they were in full life.

sec. 12. makes Executors of Executors answerable for wasting Asserts. Rast. 393.

Plowd. 286.
Fitz Covenant,
24. Fitz. Exec.
92, 103, 110, 120.
*Add of Executors.
Fitz. Exec.
10, 29, 70, 95, 120.
30 Car. 2. stat. 1.
c. 7, makes Executors of Executors in their own wrong answerable. 4 & 5 W. & M. c. 24.

Process of Exigent shall be awarded in Debt, Detinue and Replevin. 25 Ed. 3. st. 5. c. 17.

ITEM, it is accorded, That such process shall be made in a Writ of Debt and Detinue of Chattels, and taking of Beasts, by Writ of Capias, and by Process of Exigent by the Sheriff's return, as is used in a Writ of Accompt.

Regist. 81, &c. 2 Bulstr. 63. 1 Salk. 18. Rast. 149 2 Leon. 85. By 19 H. 7. c. 9. like Process is given on Case.

21 H. 6. f. 42.
30 Ed. 3. f. 9.
7 Ed. 4. f. 9.
Fitz. Process,
72, 115, 121, 216.

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25Ed.3.st.5.c.19. *By the King's Protection the Parties Suit shall not be hindered, but his Execution.*

Cro. Jac. 477.
Hobb. 115.

Co. Lit. 131. b.

The creditors
undertaking for
the King's debt.

ITEM, Forasmuch as our Lord the King hath made before this time protections to divers people, which we bounden to him in some manner of debt, that they should not be impleaded of the debts which they owed to other, till they had made gree to our Lord the King of that which to him was due by them, by reason of his prerogative; and so during such protections no man hath used, nor durst implead such debtors; (2) it is accorded and assented, That notwithstanding such protections, the parties which have actions against their debtors, shall be answered in the King's Court by their debtors; (3) and if judgment be thereupon given for the plaintiff or demandant, the execution of the same judgment shall be put in suspence till gree be made to the King of his debt. (4) And if the creditors will undertake for the King's debt, they shall be thereunto received, and shall have execution against the debtors of the debt due and adjudged to them, and also shall recover against them as much as they shall pay to the King for them.

A. D. 1353.
27Ed.3.st.2.c.19.

None shall lose his Goods by his Servant's Offence. Speedy Justice shall be done from Day to Day, and from Hour to Hour.

Merchant
strangers shall
have present
remedy for any
grievances
done to them.

ITEM que nul Marchaunt nautre, de quel condition qil soit, perde ne forface ses bienz ne Marchandisez pur trespas et forfaiture de son servaunt, sil ne le face per Commaundement ou abette de son meistre, ou qil eit mespris en loffice en quel son meistre luy ad mys, ou en autre manere que le maistre soit tenuz a respondre pur le fait son servaunt par le ley Marchaunt, come per aillours ad este usee. Et pur ce que Marchauntz ne pont sovent longement demurere en un lieu, pur entrelessier lour Marchandises, Si voloms que hastive droit lour soit fait de jour en jour et de hure en hure, solounque lez leys useez en autre estaples tenuz avaunt cez hures per aillours, tout les foitz quiles les voidrout pleindre de nulli, ou que nul se voidra pleindre de eux, issint que lez Marchauntz ne soient per malice taries pur default de hastive remedie.

A. D. 1357.
31Ed.3.st.1.c.11.

To whom the Ordinary may commit the Administration of the Goods of him that dieth intestate. The Benefit and Charge of an Administrator.

See A. A. 1789.

13 Ed.1. stat. 1.
c. 19.
Carthow 376.
1 Shower 407.
1 Roll 105.
Vaugh. 96.
37 H. 6. f. 15.
Dyer 256.
5 Co.9. 9 Co.33.
Co Lit. 133. b.
Cro. El. 409.
Cro. Car. 63, 106.
29 Car. 2. c. 3.
41 Ed. 3. f. 2.
43 El. c. 8.

IN case where a man dieth intestate, the Ordinaries shall depute the next and most lawful friends of the dead person intestate to administer his goods; (2) which deputies shall have an action to demand and recover as executors the debts due to the said person intestate in the King's Court, for to administer and dispend for the soul of the dead; (3) and shall answer also in the King's Court to other to whom the said dead person was holden and bound, in the same manner as executors shall answer. (4) And they shall be accountable to the Ordinaries, as executors be in the case of testament, as well of the time past as the time to come.

Regist. 141. Rast. 320. 2 Bulstr. 315. See farther for the duty of Ordinary and Administrator, 22 & 23 Car. 2. c. 10. 1 Jac. 2. c. 17.

A. D. 1360.

The Penalty of a Juror taking Reward to give his Verdict.

34 Ed. 3. c. 8.
31 H. 6. f. 8.

ITEM, That in every plea, whereof the inquest or assise doth pass, if any of the parties will sue against any of the jurors, that they have taken

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of his adversary, or of him, for to give their verdict, he shall be heard, and shall have his plaint by bill presently before the Justices before whom they did swear, and that the juror be put to answer without any delay; (2) and if they plead to the country, the inquest shall be taken presently. (3) And if any man other than the party will sue for the King against the juror, it shall be heard and determined as afore is said. (4) And if the juror be attainted at the suit of other than the party, and maketh fine, the party that sueth shall have half the fine; (5) and that the parties to the plea shall recover their damages by the assessment of the inquest; (6) and that the juror so attainted have imprisonment for one year, which imprisonment the King granteth that it shall not be pardoned for any fine. (7) And if the party will sue by writ before other Justices, he shall have the suit in the form aforesaid.

Fitz. Damage, 76.
Fitz. Decies tantum, 1, 2, 3, 4, 5, 6, 9, 11.
Rast. 145.
5 Ed. 3, c. 10.
En'orced by 33 Ed. 3, st. 1, c. 12, enacting that jurors taking money shall forfeit ten times the sum taken.
Regist. 189.

There shall be no forfeiture of lands for Treason of dead Persons not attainted. 34 Ed. 3, c. 12.

See Escheat Act, 28th March, 1738.

An Idemptitate Nominis shall be granted upon the wrongful Seizure of another's Person, Lands, or Goods. A. D. 1363.
36 Ed. 3, c. 2.

ITEM, For the great mischiefs which often have happened, and daily do come, because that escheators, sheriffs, and other the King's ministers, do seize the lands, goods and chattels of many, surmising that they be outlawed, where they be not outlawed, because that they bear such names as those which he outlawed, for default of good declaration of the surname: (2) it is ordained, That if any complain him in such case, he shall have a writ of *Idemptitate Nominis*, in the manner as hath been used in times past; (3) and if any man's lands, goods or chattels be seized in such case by escheator, sheriff, or other minister of the King's, he shall find surety before the minister which hath the warrant to seize, to answer to the King of the value of such lands, goods and chattels, in case that he cannot discharge him, without taking any thing of the party; (4) and if such minister do not the same, and thereof be attainted, the party shall have the suit against such minister, and recover his double damages, and nevertheless he shall be grievously punished to the King.

Dyer 5.
Fitz. Idemptitate nominis, 1, 2, 3, 7.
9 H. 6, c. 4, gives this writ to Executors.
Regist. 194, &c.
Rast. 407.

A Ship shall not be lost for a small thing therein not customed.

A. D. 1363.
38 Ed. 3, c. 8.

ITEM, Whereas the ships of divers people of the realm be arrested and holden forfeit, because of a little thing put in their ship not customed, whereof the owners of the same ships be ignorant; (2) it is accorded and assented, That no owner shall lose his ship from the *fifteenth day of February next coming forth, for such a small thing put within the ship not customed, without his knowlege.

* Sixteenth.

The Punishment of a Juror taking Reward to give Verdict, and of Embraceors. 33 Ed. 3, c. 12.

ITEM, as to the article of Jurors in the 34th year; it is assented and joined to the same, that if any juror in assises sworn, and other inquests to be taken between the King and party, or party and party, do any thing take by them, or other of the party, plaintiff, or defendant, to give their verdict, and thereof be attainted by process contained in the same article, be it at the suit of the party that will sue for himself, or for the King, or

A Juror taking reward to give his verdict shall pay ten times so much as he hath taken.
Fitz. decies tantum, 1, 2, 3, 4, 5, 6, 9, 11.

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Punishment of Embraceors.

None shall inquire of office of this statute but at the suit of the party.
5 Ed. 3, c. 10.
Regist. 188.
Rast. 145.

any other person, every of the said jurors shall pay ten times as much as he hath taken; (2) and he that will sue shall have the one half, and the King the other half. [3] And that all the embraceors that bring or procure such inquests in the country to take gain or profit, shall be punished in the same manner and form as the jurors; [4] and if the juror or embraceor so attainted have not whereof to make gree in the manner aforesaid, he shall have the imprisonment of one year. [5] And the intent of the King, of the Great Men, and of the Commons is, that no justice nor other minister shall enquire of office upon any of the points of this article, but only at the suit of the party, or of other, as afore is said.

A. D. 1368.
42 Ed. 3, c. 10.

Children born beyond the Sea, if inheritable in England.

AUSSINT sur la petition mis en parlement par la communalte suppli-ant qe les enfantz neez pardela dienz les Seignuries de Caleys, Guynes & Gascoigne & aillours dienz les terres & Seignores qe appartiennent a nostre Seigneur le Roi pardela soient si avant ables & inheritables de leur heritages en Engleterre come autres enfantz neez deinz le Roialme dEngleterre est accorde & assentu qe la commune loye & lestatut sur ce point autrefois faitz soient tenuz & gardez.

A. D. 1377.
1 R. 2, c. 12.

A Prisoner by Judgement shall not be let at large. Confession of a Debt to the King to Delay another's Execution.

See 37th section of Jury Law, 20th August, 1731—9th section of Circuit Court Act, 29th July 1769. And A. A. 29th February, 1769.

3 Bulstr. 97.
Plowd. 35.
Dyer 66, 162,
271, 278, 297,
306, 322.
Kel 2.
3 Co. 52, 71.
5 Co. 89.
8 Co. 142.
Fitz. Dette, 53,
67, 110, 130, 162.
Fitz. Executor,
74, 100.
1 Roll 205, 241,
275. The pen-
alty of the
Warden of the
Fleet, if he suf-
fer a prisoner,
being there by
judgment, to go
at large.
13 Ed. 1, stat.
1, c. 11.
1 Saund. 38.

ITEM. Whereas divers people at the suit of the party commanded to the Prison of the Fleet, by judgement given in courts of our Lord the King, be oftentimes suffered to go at large by the Warden of the Prison, sometimes by mainprise or by bail, and sometimes without any mainprise with a Baston of the Fleet, and to go from thence into the country about their merchandises and other their business, and be there long out of prison nights and days, without their assent at whose suit they be judged, and without their gree thereof made, whereby a man cannot come to his right, and recovery against such prisoners, to the great mischief and undoing of many people: [2] It is ordained and assented, That from henceforth no Warden of the Fleet shall suffer any prisoner there being by judgment at the suit of the party, to go out of prison by mainprise, bail, nor by baston, without making gree to the said parties of that whereof they were judged, unless it be by writ or other commandment of the King, upon pain to lose his office, and the keeping of the said prison. [3] And moreover, if any such Warden from henceforth be attainted by due process, that he hath suffered or let such prisoner to go at large, against this ordinance, then the plaintiffs shall have their recovery against the same Warden by writ of debt.

[The Statutes of Forcible Entry and Detainer, forming a class of Acts relating to a particular offence, of which instances occur among us even yet, are here inserted together, under the authority of section 2 of the present Act of Assembly.]

A. D. 1381. *The Penalty where any doth enter into lands where it is not lawful, or with force.*

AND also the King defendeth, That none from henceforth make any entry into any lands and tenements, but in case where entry is given by

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the law; and in such case not with strong hand, nor with multitude of people, but only in peaceable and easy manner. (2) And if any man from henceforth do to the contrary, and thereof be duly convict, he shall be punished by imprisonment of his body, and thereof ransomed at the King's will.

enter into lands but where his entry is given by the law, and then with strong hand.
1 Hawk. Pl. Cr. c. 64.

15 R. 2, c. 2. 4 H. 5, c. 8. 8 H. 6, c. 9. 1 H. 7, c. 22. 23 H. 8, c. 14. Explained 31 Eliz. c. 11. 21 Jac. 1, c. 15.

The Duty of Justices of Peace when any forcible Entry is made into Lands.

A. D. 1391.
15 R. 2, c. 2.

ITEM, it is accorded and assented, That the ordinances and statutes, made and not repealed, of them that make entries with strong hand into lands and tenements, or other possessions whatsoever, and them hold with force, and also of those that make insurrections, or great ridings, riots, routs, or assemblies, in disturbance of the peace, or of the common law, or in affray of the people, shall be holden and kept, and fully executed; (2) joined to the same, That at all times that such forcible entry shall be made, and complaint thereof cometh to the justices of peace, or to any of them, that the same justices or justice take sufficient power of the county, and go to the place where such force is made; (3) and if they find any that hold such place forcibly after such entry made, they shall be taken and put in the next gaol, there to abide convict by the record of the same justices or justice, until they have made fine and ransom to the King: (4) And that all the people of the county, as well the sheriffs as other, shall be attendant upon the same justices to go and assist the same justices to arrest such offenders, upon pain of imprisonment, and to make fine to the King. (5) And in the same manner it shall be done of them that make such forcible entries in benefices or offices of holy church.

Former statutes concerning forcible entries and riots confirmed. Kel. 41. 3 Bulstr. 71. Mod. Cases in Law. 65. 8 H. 6, c. 9. See 21 Jac. 1, c. 15, which enables Justices to give restitution in certain cases

The duty of Justices of Peace where Land is entered upon or detained with Force.

A. D. 1429.
8 H. 6, c. 9.

ITEM, Whereas by the noble King Richard, late King of England, after the Conquest the Second, at this Parliament holden at Westminster the morrow after All Souls, the fifteenth year of his reign, amongst other things, it was ordained and established, That the statutes and ordinances made, and not repealed, of them that make entries with strong hand into lands or tenements, or other possessions whatsoever, and them hold with force, and of them that make insurrection, riots, routs, ridings, and assemblies, in disturbance of the peace, or of the common law, or in affray of the people, should be holden and fully executed. (2) And moreover it is ordained by the same statute, That at all times that such forcible entries be made, and complaint thereof come to the justices of peace, or any of them, that the same justices or justice shall take the power of the county, and shall go, or one of them shall go, to the place where such force is made; (3) and if they find, or he findeth, any holding such place forcibly, after such entry made, they should be taken and put in the next gaol, there to remain convict by the record of the same Justices or Justice, until they have made fine and ransom to the King; (4) and that all the people of the county, as well sheriffs as other, shall be attending to the said justices, and to assist them to arrest such malefactors, upon pain of imprisonment, and to make fine and ransom to the King. And that in the same

The statute of 15 R. 2, c. 2, touching Forcible Entries, rehearsed and confirmed. 4 Co. 48. Hob. 94. Keilw. 207, 208.

The defects of the statute of 15 R. 2, c. 2. Palmer 277.

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manner be done of them that make forcible entries into benefices or offices of holy church, as in the same statute is contained more at large.

The office and duty of Justices of Peace when any forcible entry is made into lands, or peaceable entry and after detaining with force.
Carthew 40.

II. And for that the said statute doth not extend to entries in tenements in peaceable manner, and after holden with force, nor if the persons which enter with force into lands and tenements, be removed and voided before the coming of the said justices or justice, as before, nor any pain ordained if the sheriff do not obey the commandments and precepts of the said justices for to execute the said ordinance, many wrongful and forcible entries be daily made in lands and tenements by such as have no right, and also divers gifts, feoffments, and discontinuances sometimes made to lords, and other puissant persons, and extortioners, within the said counties where they be conversant, to have maintenance, and some times to such persons as be unknown to them so put out, to the intent to delay and defraud such rightful possessors of their right and recovery for ever, to the final disherison of divers of the King's faithful liege people, and likely daily to increase, if due remedy be not provided in this behalf: (2) Our Lord the King considering the premises, hath ordained, That the said statute, and all other statutes of such entries or alienations made in times past, shall be holden and duly executed; (3) joined to the same, That from henceforth where any doth make any forcible entry in lands and tenements, or other possessions, or them hold forcibly, after complaint thereof made within the same county where such entry is made, to the justices of peace, or to one of them, by the party grieved, that the justices or justice so warned, within a convenient time shall cause, or one of them shall cause, the said statute duly to be executed, and that at the costs of the party so grieved.

1 Leonard 327. The remedy where any person entering by force doth alien the same land to have maintenance.
1 R. 2, c. 9
Dyer 122, 187.
9 Co 118.
11 Co 65.
7 Ed. 4, c. 8.
4 H. 7, f. 18.
Cro. Eliz. 184,
189, 306, 458,
461, 532, 654,
738, 915.
Cro. Jac. 17, 19,
31, 41, 143,
151, 176, 214.
Cro. Car. 201.

III. And moreover though that such persons making such entry be present, or else departed before the coming of the said justices or justice, notwithstanding, the same justices or justice in some good town next to the tenements so entered, or in some other convenient place, according to their discretion, shall have, or either of them shall have, authority and power to inquire by the people of the same county, as well of them that make such forcible entries in lands and tenements, as of them which the same hold with force; (2) and if it be found before any of them, that any doth contrary to this statute, then the said justices or justice shall cause to reseise the lands and tenements so entered or holden as afore, and shall put the party so put out in full possession of the same lands and tenements so entered or holden, as before. (3) And if any person, after such entry into lands or tenements holden with force, make a feoffment or other discontinuance to any lord or other person, to have maintenance, or to take away and defraud the possessor of his recovery in any wise, if after in assize, or other action thereof to be taken or pursued before justices of assises, or other the King's justices whatsoever, by due inquiry thereof to be taken, the same feoffments and discontinuances may be duly proved, to be made for maintenance, as afore is said, that then such feoffments, or other discontinuances, so as before made, shall be void, frustrate, and holden for none.

The Justices precept to the Sheriff to return a jury to inquire of forcible entries. Juror to have 40s. per ann.

IV. And also when the said justices or justice make such inquiries as before, they shall make, or one of them shall make, their warrants and precepts to be directed to the sheriff of the same county, commanding him of the King's behalf to cause to come before them, and every of them, sufficient and indifferent persons, dwelling next about the lands so entered as before, to inquire of such entries; (2) whereof every man, which shall be impannelled to inquire in this behalf, shall have land or tenement of the

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yearly value of forty shillings by year at the least, above reprises. (3) And that the sheriff return issues upon every of them at the day of the first precept, returnable xx. s. and at the second day xl. s. and at the third time C. s. and at every day after, the double. (4) And if any sheriff or bailiff within a franchise, having return of the King's writ, be slack, and make not execution duly of the said precepts to him directed to make such inquiries, that he shall forfeit to the King xx. li. for every default, and moreover shall make fine and ransom to the King.

The Sheriff's
penalty for
omitting his
duty.

V. And that as well the justices or justice aforesaid, as the justices of assises, and every of them, at their coming into the country to take assises, shall have, and every of them shall have, power to hear and determine such defaults and negligences of the said sheriffs and bailiffs, and every of them, as well by bill at the suit of the party grieved for himself as for the King, to sue by indictment only to be taken for the King. [2] And if the sheriff or bailiff be duly attainted in this behalf by indictment, or by bill, that he which sueth for himself and for the King have the one moiety of the forfeiture of xx.li. together with his costs and expences. [3] And that the same process be made against such persons indicted or sued by bill in this behalf, as should be against persons indicted or sued by writ of trespass done with force and arms against the peace of the King.

VI. And moreover, if any person be put out, or disseised of any lands or tenements in forcible manner, or put out peaceably, and after holden out with strong hand; or, after such entry, any feoffment or discontinuance in any wise thereof be made, to defraud and take away the right of the possessor; that the party grieved in this behalf shall have assise of novel disseisin, or a writ of trespass against such disseisor. [2] And if the party grieved recover by assise, or by action of trespass, and it be found by verdict, or in other manner by due form in the law, that the party defendant entered with force into the lands and tenements, or them after his entry did hold with force, that the plaintiff shall recover his treble damages against the defendant; [3] and moreover, that he make fine and ransom to the King. And that mayors, justices or justice of peace, sheriffs, and bailiffs of cities, towns, and boroughs, having franchise, have in the said cities, towns, and boroughs, like power to remove such entries, and in other articles aforesaid, rising within the same, as the justices of peace and sheriffs in counties and countries aforesaid have.

What action
may be had a-
gainst him who
doth put out,
or keep out of
possession with
force. Savil 68.
1 H.7. f.19, 6H.
7. f.12. 10H.7.4.
9 15 H.7. f.17.
Dyer, f.142. Fitz
Ent. 15, 16, 17,
18, 21, 27, 33, 39,
45. 10H.7. f.12.
10 Ed. 4. f.10.
Dyer 214. Fitz.
Dam 23, 25. 10
Co. 116. 11 Co.
30 Cro. El. 93.
96, 106, 697. 22
H.6. f.18. Kelf.
74. a 187. 14 H.
7. f.28. Dyer, f.
141. Bro. Force,
22. 1 Bulst. 218.
2 Leon. 52. Co.
pl. f. 315.
The authority
of the chief offi-
cers in cities &c.
who have had
three years possession.

VII. *Provided* always, That they which keep their possessions with force in any lands and tenements, whereof they or their ancestors, or they whose estate they have in such lands and tenements, have continued their possessions in the same by three years or more, be not endangered by force of this statute.

to repress force. Inforced and explained by 31 El. c. 11. They may keep their land by force who have had three years possession. 1 Salk. 356. 1 Inst. 257. 5 R. 2. stat. 1. c. 7. 4 H. 4. c. 8. 23 H. 8. c. 14, and see 21 Jac. 1. c. 15, which enables Justices to give restitution in certain cases.

An Act to enable Judges and Justices of the Peace to give Restitution of Possession in certain Cases.

A. D. 1623.
21 J. 1 c. 15.

BE it enacted, That such judges, justices or justice of the peace, as by reason of any Act or Acts of Parliament now in force are authorised and enabled, upon enquiry, to give restitution of possession unto tenants of any estate of freehold of their lands or tenements which shall be entered upon with force, or from them withholden by force, shall by reason of this present Act have the like and the same author- years, &c.

4 Inst. 176.
Restitution of
possession shall
be given, to
avoid entries
with force, in
estates for
years, &c.

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Latch 183.
15 R. 2, c. 2.

ity and ability from henceforth (upon indictment of such forcible entries, or forcible withholdings, before them duly found) to give like restitution of possession unto tenants for term of years, tenants by copy of court-roll, guardians by knights-service, tenants by *elegit*, statute-merchant and staple, of lands or tenements by them so holden, which shall be entered upon by force, or holden from them by force.

A. D. 1389.
13 R. 2, c. 5.
Enforced.
2 H. 4, c. 11.
1 Inst. 260.
4 Inst. 135.
12 Co. 104.
13 Co. 42, 52.
Hob. 11, 79,
196, 212.
2 Bulstr. 323.
3 Bulstr. 205.
Dyer 159.
4 Mod. 176.
2 Roll 497.
See 15 R. 2, c. 3.
in what place
the Admiral's
jurisdiction
doth lie.

What things the Admiral and his Deputy shall meddle.

ITEM, Forasmuch as a great and common clamour and complaint hath been oftentimes made before this time, and yet is, for that the admirals and their deputies hold their sessions within divers places of this realm, as well within franchise as without, accroaching to them greater authority than belongeth to their office, in prejudice of our Lord the King, and the common law of the realm, and in diminishing of divers franchises, and in destruction and impoverishing of the common people; [2] it is accorded and assented, That the admirals and their deputies shall not meddle from henceforth of any thing done within the realm, but only of a thing done upon the sea, as it hath been used in the time of the noble Prince King Edward, grandfather of our Lord the King that now is.

A. D. 1391.
15 R. 2, c. 3.

In what Places the Admiral's Jurisdiction doth lie.

13 Co. 42, 52.
1 Roll. 336.

ITEM, At the great and grievous complaint of all the Commons, made to our Lord the King in this present Parliament, for that the Admirals and their deputies do inroach to them divers jurisdictions, franchises and many other profits pertaining to our lord the King, and to other lords, cities and boroughs, other than they were wont or ought to have of right, to the great oppression and impoverishment of all the commons of the land, and hinderance and loss of the King's profits, and of many other lords, cities, and boroughs through the realm; [2] it is declared, ordained, and established, That of all manner of contracts, pleas, and quarrels, and all other things rising within the bodies of the counties, as well by land as by water, and also of wreck of the sea, the Admiral's Court shall have no manner of cognisance, power nor jurisdiction, but all such manner of contracts, pleas and quarrels, and all other things rising within the bodies of counties, as well by land as by water, as afore, and also wreck of the sea, shall be tried, determined, discussed, and remedied by the laws of the land, and not before nor by the admiral, nor his lieutenant, in any wise. [3] Nevertheless, of the death of a man, and of a Maihem done in great ships, being and hovering in the main stream of great rivers, only beneath the bridges of the same rivers nigh to the sea, and in none other places of the same rivers, the admiral shall have cognizance, and also to arrest ships in the great flotes for the great voyages of the King and of the realm; saving always to the King all manner of forfeitures and profits thereof coming; (4) And he shall have also jurisdiction upon the said flotes, during the said voyages only, saving always to the lords, cities and boroughs their liberties and franchises.

Dyer 159.
19 H. 6, f. 7.
5 Co. 106.
Cro. Car. 296.
2 Bulstr. 323.
Leigh's Case,
M. 7 Jac.
Points.
4 Inst. 137.
Owen 122.
It is Portes
in the old
abridgement.
Rast. 23, 13 R.
2, st. 1, c. 5.
See 2 H. 4, c. 11,
which gives
remedy to him
who is wrong-
fully sued in
the Court of
Admiralty.

A. D. 1400.
2 H. 4, c. 11.
1 Roll. 80, 203.
13 Co. 52.

A Remedy for him who is wrongfully pursued in the Court of Admiralty.

ITEM, Whereas in the Statute made at Westminster the 13th year of the said King Richard, amongst other things it is contained, That the

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admirals and their deputies shall not intermeddle from thenceforth of any thing done within the realm, but only of a thing done upon the sea, according as it hath been duly used in the time of the noble king Edward, grandfather to the said king Richard; (2) our said Lord the King will and granteth, That the said statute be firmly holden and kept, and put in due execution. (3) And moreover the same our lord the King, by the advice and assent of the Lords spiritual and temporal, and at the prayer of the said Commons, hath ordained and stablished, That as touching a pain to be set upon the Admiral or his lieutenant, that the statute and the common law be holden against them; (4) and that he that feeleth himself grieved against the form of the said statute, shall have his action by writ grounded upon the case against him that doth so pursue in the Admiral's court; (5) and recover his double damages against the pursuant; [6] and the same pursuant shall incur the pain of £10 to the King for the pursuit so made, if he be attained.

The Statute of 13 R. 2. st. 1, c. 5. confirmed, touching the Admiral's jurisdiction. 15 R. 2, c. 3. 5 Co. 106. Dyer 159. 4 Mod 176. 1 Salk. 31. 19 H. 6, f. 7. Cro. Car. 296, 603. Rast 23.

*The punishment of an Attorney found in Default.*A. D. 1402.
4 H. 4, c. 18.

ITEM, For sundry damages and mischiefs that have ensued before this time to divers persons of the realm by a great number of attornies, ignorant and not learned in the law, as they were wont to be before this time; (2) it is ordained and stablished, That all the attornies shall be examined by the justices, and by their discretions their names put in the roll, and they that be good and virtuous, and of good fame, shall be received and sworn well and truly to serve in their offices, and especially that they make no suit in a foreign county; and the other attornies shall be put out by the discretion of the said justices; (3) And that their masters, for whom they were attornies, be warned to take others in their places, so that in the mean time no damage nor prejudice come to their said masters. (4) And if any of the said attornies do die, or do cease, the justices for the time being by their discretion shall make another in his place, which is a virtuous man and learned, and sworn in the same manner as afore is said; (5) and if any such attorney be hereafter notoriously found in any default of record, or otherwise, he shall forswear the court, and never after be received to make any suit in any court of the King. (6) And that this ordinance be holden in the Exchequer after the discretion of the treasurer and of the barons there.

What sort of men shall be Attornies. 4 Inst. 76. 3 H. 6, f. 29.

20 H. 6, f. 37. Bro. Attor. 33.

Judgments given shall continue until they shall be reversed by Attaint or Error.

4 H. 4, c. 23.

ITEM, Whereas as well in plea real as in plea personal, after judgment given in the Courts of our Lord the King, the parties be made to come upon grievous pain, sometime before the King himself, sometime before the King's Council, and sometimes to the Parliament, to answer there of new, to the great impoverishing of the parties aforesaid, and in the subversion of the common law of the land; [2] it is ordained and stablished, That after judgment given in the Courts of our Lord the King, the parties and their heirs shall be thereof in peace, until the judgment be undone by c. 18. attaint or by error, if there be error, as hath been used by the laws in the times of the King's progenitors.

19 H. 6, f. 39. Dyer 315, 321, 376. Cro. Jac. 335, 343. 3 Bulstr. 42, 47, 125. 12 Co. 64. Dr. and Stud. c. 18.

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*English Statutes Made of Force.*A. D. 1403.
5 H. 4, c. 5.*It shall be Felony to cut out the Tongue, or pull out the Eyes of the King's liege People.*Kelyng 65.
By 22 & 23 Car.
2, c. 1. malicious
maheym is
made felony
without benefit
of clergy.

ITEM, Because that many offenders do daily beat, wound, imprison, and maim divers of the King's liege people, and after purposely cut their tongues, or put out their eyes; [2] it is ordained and stablished, That in such case the offenders that so cut tongues, or put out the eyes of any of the King's liege people, and that duly proved and found, that such deed was done of malice prepensed, they shall incur the pain of Felony.

A. D. 1330.
9 H. 6. c. 4.*An Idemptitate nominis maintainable by Executors, &c.*

(See A. A. 1789.)

ITEM, for that before this time many outlawries have been pronounced against divers of the King's liege people, as well before the statute of additions made at Westminster the 1st year of King Henry the fifth, father to our Lord the King that now is, as sithence, in respect of which outlawries, the bodies of other persons having such and like names as they had which were outlawed indeed, have been taken and imprisoned, and their goods and chattles for this cause seized by the escheators of the King and of his noble progenitors: [2] And although that by the common law of the realm a writ of *Idemptitate nominis* hath been maintainable for the same person, which in the form aforesaid was molested and grieved; nevertheless if any person of the said lieges, having like name as any other person of the same liege people which was outlawed indeed, had made his executors, and died, often it happened, that by malice and subtil imaginations, the goods and chattels of such testator, which had the same name as he had which was outlawed indeed, were seized and escheated to the hands of our Lord the King, and of his progenitors, in retardation of the execution of the testament of every such testator, for the doubt which hath been, whether any executors may by the common law have a writ of *Idemptitate nominis*, or not. [3] Wherefore to take away and remove all such ambiguities and doubts in this case hereafter, of the assent and advice aforesaid, and at the special request of the said commons, it is ordained and established by authority of this parliament, that a writ of *Idemptitate nominis*, be granted and made good and maintainable for the executors of every testator, to the same effect that the same action of *Idemptitate nominis* was maintainable before this parliament for any person himself which was or might have been molested or grieved because or by colour of any such outlawry. [4] And that this ordinance shall have relation and force, by authority aforesaid, for the executors of every testator, as well of every outlawry pronounced against any person at any time before this parliament, as of all manner of outlawries to be pronounced against any person in time to come.

An Idempti-
tate nominis
maintainable
by the
Executors of a
Testator
wrongfully
molested by
colour of any
outlawry.
Regist. 194.

A. D. 1435.
14 H. 6. c. 1.*Justices of Nisi Prius may give Judgment of a Man attainted or acquitted of Felony.*Dyer f. 120.
10 Ed. 4. f. 19.

FIRST, our Lord the King hath ordained, by the authority of the said Parliament, that the justices before whom inquisitions, inquests and juries, from henceforth shall be taken by the King's Writ called *Nisi Prius*, according to the form of the statute thereof made, shall have power of all the cases of felony and of treason, to give their judgments as well where a man is acquit of felony of of treason, as where he is thereof attainted, at the

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day and place where the said inquisitions, inquests and juries be so taken, and then from thenceforth to award execution to be made by force of the same judgments.

Appeals or Indictments of Felony committed in a place where there is none such.

A. D. 1439.
18 H. 6. c. 12.

ITEM, whereas in the Parliament holden at Westminster, the 2d day of May, the 9th year of the reign of Henry the fifth, father to the King that now is, amongst other things it was ordained and established, for that many people by malice, envy and revenge, cause often the King's liege people to be appealed or indicted in divers counties of treasons or of felonies, supposing by the said appeals or indictments, that the said treasons or felonies were done in a certain place in such a county where the indictment is made, or such a place as is or shall be declared by the said appeals, where no such place is in the same county, that the process of the same shall be void, and holden for none; [2] and that the indictors, procurators and conspirators shall be also punished by imprisonment and fine, and ransom for the King's advantage, by the discretion of the justices; [3] and that the said appellees or inditees may have writs of conspiracy against their indictors, procurators, and conspirators, and shall recover their damages. [4] And this ordinance shall stand in his force until the next Parliament to be holden after the coming again of the said late King into England, from beyond the sea; [5] which statute by the decease of the said late King, by opinion of some is expired, and by the opinion of some not expired. [6] The same our Lord the King that now is, considering that the said ordinance was good and profitable for the weal of him and his liege people, hath declared and ordained by authority of this present Parliament, that the said ordinance made in the said 9th year, and so by the death of his said Father, as some think, expired, and not otherwise repealed, shall be and abide an effectual and available statute and ordinance in law perpetually to endure.

A Writ of Conspiracy maintainable against the indictors, procurators, and conspirators. Regist. 134. Rast. Pl. 123.

A remedy for a Woman enforced to be bound by Statute or Obligation.

A. D. 1452.
31 H. 6. c. 9.

ITEM, whereas in all parts of this realm divers people of great power, moved with insatiable covetousness, against all right, humanity, integrity and good conscience, have sought and found new inventions, and them continually do execute, to the danger, trouble, and great abusing of all ladies, gentlewomen, and other women sole, having any substance of lands, tenements, or other movable goods within this realm, perceiving their great weakness and simplicity, will take them by force, or otherwise come to them, seeming to be their great friends, promising them their faithful friendship, and so by great dissimulation, or otherwise, get them into their possession, conveying them into such places where the said offenders be of most power; [2] and when any women by such means, or by any other means be in their government, the said evil disposed person or persons will not suffer them to go at large, and be at their liberty, until that they will bind themselves to the said offenders, or other person or persons to their use, in great sums, by obligation or obligations, as well simple as conditional, or by obligation or obligations of statute-merchant, made before a mayor or bailiff, having power to take such recognizances.

3 Inst. 60.

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II. Also they will many times compel them to be married by them, contrary to their own likings, or otherwise they will levy the said sum or sums on their lands and goods, and put their person or persons in danger, to their great damage, which hath been, and is like to be an universal prejudice to the law of holy church, and the law of this realm, unless due remedy thereupon be provided. [2] Said Lord the King, considering the premises, hath ordained and stablished, by authority of this present Parliament, that in all such cases aforesaid, the party bound may have a writ out of the chancery, containing all the matter of their unreasonable intreaty, directed to the sheriff of the county, where any such offences were so done, or after shall be done, commanding him, that he, by force of this writ, make proclamation in the full county, and in the next county court after the receipt of the said writ, that the person or persons contained in the said writ shall appear at a certain day and place prefixed in the said writ, before the chancellor of England for the time being, or otherwise before the justices of assize, in the counties where the said offences were done, or else before some other notable person to be assigned by the chancellor of England for the time being; [3] at the which day and place, if the said parties appear, that then the said chancellor of England, justice, or other person so to be assigned by the chancellor for the time being, by virtue of this ordinance, shall duly examine the said parties upon the premises; [4] by which examination, if they can find the said obligation or obligations, or any of them so to be made as is aforesaid, that then the obligation or obligations, and all process and execution sued, or to be pursued thereupon, shall be void, and of no force nor effect. [5] And if it be found by examination before them, that the said obligation or obligations, or any of them, were made, or shall be found to be made, for a true duty, and by no such means as afore is said, that then the said obligation or obligations, and all the process and execution sued, or to be pursued thereupon, shall stand good and effectual. [6] And if it be so that the person or persons in such writs named, or to be named, against whom any such *Letters or writs hereafter shall be sued, make default at the day and place limited in the same writ or writs, that then all such obligation or obligations as be before specified and declared, and in the said writ or writs expressed, declared and specified, and all manner of process and execution sued, or to be sued thereupon, shall be void, and of no force nor effect; [7] and that the said sheriff or sheriffs, to whom such writ or writs upon this ordinance hereafter commenced, shall be directed, shall execute the said writs according to the tenor of the same, upon pain of £300, whereof our Sovereign Lord the King to have the one half, and the other half to the party which shall sue the said writ of proclamation. [8] And that the said party so grieved may have an action of debt in every such case against the said sheriff, for the half of the said £300, so forfeit, with process of outlawry. [9] And that the party or parties defendants in any such action hereafter to be pursued against any sheriff or sheriffs, shall alledge no protection, nor shall wage his law, nor shall be received to make or plead any foreign plea, to be tried in any other place than there where the said writ grounded upon this statute is sued.

*Not in Orig.

The Forfeiture
of the sheriff
which doth not
execute the
King's Writ of
Proclamation.

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A. D. 1719

A remedy for Executors against Servants that embezzle their Master's goods after his death. 33 H. 6. c. 1.

FIRST, our foresaid Lord the King, considering how that of late time divers household servants, as well of Lords as of other persons of good degree, shortly after the death of their said Lords and masters, violently and riotously have taken and spoiled the goods which were of their said Lords and masters, at the time of their death, and the same distributed amongst them, to the impediment of the execution of the will of their said Lords and masters, and to the great displeasure of God, and also contrary to the duty and truth which they ought to have had towards their said Lords and masters, and to a perilous example in time to come, unless due remedy in this behalf be provided. [2] Wherefore the same Lord the King, by the advice, assent and authority aforesaid, hath ordained and established, that after full information made to the Chancellor of England for the time being, by the executors of any such Lord or person, or two of the said executors, of such riot, taking, and spoil made, or hereafter to be made, by the household servants of their or his said testator, after his death, the same chancellor, by the advice of the chief justices of the King's bench, and of the common bench, and chief baron of the exchequer for the time being, or two of them, shall have power to make so many, and such writs, to be directed to such sheriffs by their discretion, as to them in this behalf shall seem necessary, to make open proclamation in such cities, boroughs, towns, or places, two market days within twelve days next after the delivery of the same writs, as to the same chancellor, by the advice aforesaid, shall seem reasonable; that the said offenders shall appear before the same our Lord the King, or his heirs, in his bench, at such a day as by the said writ shall be limited, so that the said last proclamation be made by fifteen days before the same day of appearance; [3] and if any such writ be returned at the day contained in the said writ, and the writ be executed that proclamation is thereupon had and made according to the said ordinance, and then if the said person or persons, which should appear by reason of the said proclamation; make default at the day specified in the said writ, and do not appear, then he or they so making default shall be attainted of felony.

II. And if any such persons or person do appear at the same day, then the justices of the said King's bench shall have power, by the said ordinance, to commit such person or persons so appearing, to prison, there to remain according to the said justices discretion, until the said offenders in the said bench do answer to the said executors in such actions, which the said executors will declare against them, or any of them, by bill or by writ, for the riot, taking and spoiling aforesaid, and that the same actions be determined; [2] so that the same actions be pursued with effect, and not slackly, to the intent to keep the same person or persons in prison.

III. And if such persons or person be set at liberty out of prison by the said justices, that then the same persons or person shall find sufficient persons to be bounden with them to the said executors, by way of recognizance in the said bench, by discretion of the justices, to keep such days as he or they shall have by the same court; [2] and if the keepers of the prison, whereunto the said person or persons be committed, do let them go at large out of the prison of his own authority, without the consideration and order of the said justices, then the said keeper shall forfeit and loose 40 [400] pounds to the said executors; [3] and that no protection be allowed in any action to be taken upon the said ordinance.

3 Inst. 104.
Qu. If in use?
Rast. Ent. 29.
c.

A Gaoler's
forfeiture for
setting at
liberty a
prisoner
committed to
his custody by
force of this
statute.

A. D. 1712.

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A. D. 1483. *Every Justice of Peace may let a prisoner to mainprize. No officer shall*
 1 R. 3. c. 3. *seize the goods of a prisoner until he be attained.*

FORASMUCH as divers persons have been daily arrested and imprisoned for suspicion of felony, sometime of malice, and sometime of a light suspicion, and so kept in prison without bail or mainprize, to their great vexation and trouble: [2] Be it ordained, that every justice of peace in every shire, city or town, shall have authority and power, by his or their discretion, to let such prisoners and persons so arrested, to bail or mainprize, in like form as though the same prisoners or persons were indicted thereof of record before the same justices in their sessions; [3] and that justices of peace have authority to inquire in their sessions of all manner escapes of every person arrested and imprisoned for felony. [4] And that no sheriff, under-sheriff, nor escheator, bailiff of franchise, nor any other person, take or seize the goods of any person arrested or imprisoned for suspicion of felony, before that the same person, so arrested and imprisoned, be convicted or attained of such felony according to the law, or else the same goods otherwise lawfully forfeited; [5] upon pain to forfeit the double value of the goods so taken, to him that is so hurt in that behalf, by action of debt to be pursued by like process, judgment and execution, as is commonly used in other actions of debt sued at the common law; [6] and that no essoin or protection be allowed in any such action; nor that the defendant in any such action be admitted to wage or do his law.

Every justice of Peace may admit a prisoner to bail. Rep. 3. H. 7. c. 3. 1 and 2 Ph. and M. c. 13. Escape of Felons inquirable by Justices of the Peace. 1 Lutw. 132. Cro. El. 749. 43 Ed. 3. f. 24. No officer shall seize the goods of a prisoner until he be attained or the goods forfeited. See 31 Car. 2. c. 2 sect. 7. for bailing persons committed for treason or felony, and not indicted the next term.

A. D. 1486. *The penalty for carrying a woman away against her will that hath lands*
 3 H. 7. c. 2. *or goods.*

ITEM, where women, as well maidens as widows and wives, having substances, some in goods moveable, and some in lands and tenements, and some being heirs apparent unto their ancestors, for the lucre of such substances been oftentimes taken by mis-doers, contrary to their will, and after married to such mis-doers, or to other by their assent, or defoiled, to the great displeasure of God, and contrary to the King's laws, and disparagements of the said women, and utter heaviness and discomfort of their friends, and to the evil ensample of all other: [2] It is therefore enacted, that what person or persons from henceforth that taketh any woman so against her will unlawfully, that is to say, maid, widow or wife, that such taking, procuring, and abetting to the same, and also receiving wittingly the same woman so taken against her will, and knowing the same, be felony; [3] and that such mis-doers, takers, and procurators to the same, and receitors, knowing the said offence in form aforesaid, be henceforth reputed and judged as principal felons. [4] Provided always, that this Act extend not to any person taking any woman, only claiming her as his ward or bond-woman.

3 Inst. 61. 1 Vent. 243. 244. 1 Anders. 115. 12 Co. 100. Cro. Car. 483, 485, 488, 492. Hob. 192. Kel. 81. Felony to carry away a woman against her will, that hath lands or goods or is heir apparent to her ancestor. See 4 and 5 P. and M. c. 3.

3 H. 7. c. 3. *Justices of Peace may let prisoners to bail. The Sheriff shall certify the names of all his prisoners at the Gaol-delivery.*

ITEM, where in the Parliament late holden at Westminster, the first year of Richard, late in deed, and not of right, King of England, the 3rd; it was enacted among other divers Acts, that every justice of the peace in every shire, city or town, should have authority and power, by his or their discretion, to let prisoners and persons arrested for light suspicion of felony,

1 R. 3. c. 3. Justices of the Peace may let a prisoner to mainprize, who

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to bail or mainprize; [2] by colour whereof afterward divers persons, such as were not mainpernable, were oftentimes letten to bail and mainprize, by justices of the peace, against the due form of the law, whereby many murderers and felons escaped, to the great displeasure of the King, and annoyance of his liege people: [3] Wherefore, the justices of peace in every shire, city or town, or two of them at the least, whereof one to be of the quorum, have authority and power to let any such prisoners, or persons mainpernable by the law, that have been imprisoned within their several counties, city or town, to bail or mainprize, unto their next general sessions, or unto the next gaol-delivery of the same gaols in every shire, city or town, as well within franchises as without, where any gaols been or hereafter shall be; [4] and that the said justices of the peace, or one of them, so taking any such bail or mainprize, do certify the same at the next general sessions of the peace, or the next general gaol-delivery of any such gaol, within every such county, city or town, next following after any such bail or mainprize so taken, upon pain to forfeit unto the King for every default thereupon recorded x. li. [5] And moreover it is enacted by the same authority, that every sheriff, bailiff of franchise, and every other person, having authority or power of keeping of gaol, or of prisoners for felony, in like manner and form do certify the names of every such prisoner in their keeping, and of every prisoner to them committed for any such cause, at the next general gaol delivery, in every county or franchise where any such gaol or gaols have been, or hereafter shall be, there to be kalendered before the justices of the deliverance of the same gaol, whereby they may, as well for the King as for the party, proceed to make deliverance of such prisoners, according to the law, [6] upon pain to forfeit unto the King for every default thereof recorded, C. s. [7] and that the aforesaid Act giving authority and power in the premises to any justice of the peace by himself, be in that behalf utterly void and of none effect by authority of this present parliament.

All Deeds of Gift made to defraud Creditors shall be void.

3 H. 7. c. 4.

ITEM, that where oftentimes deeds of gift of goods and chattles have been made, to the intent to defraud their creditors of their duties, and that the person or persons that maketh the said deed of gift, goeth to sanctuary, or other places privileged, and occupieth and liveth with the said goods and chattels, their creditors being unpaid: [2] It is enacted, that all deeds of gift of goods and chattels made or to be made of trust, to the use of that person or persons that made the same deed of gift, be void and of none effect.

Costs, &c. awarded to the Plaintiff, where the Defendant sueth a Writ of Error.

3 H. 7. c. 10.

ITEM, that where oftentimes plaintiff or demandant, plaintiffs or demandants, that have judgment to recover, be delayed of execution, for that the defendant or tenant, defendants or tenants, against whom judgment is given, or other that been bound by the said judgment, sueth a writ or writs of error to annul and reverse the said judgment, to the intent only to delay execution of the said judgment. [2] It is enacted, that if any such defendant or tenant, defendants or tenants, or if any other that shall be bound by the said judgment, sue, afore execution had, any writ of error to reverse any such judgment, in delaying of execution, [3] that then if the

is mainpernable. Inforced by 1 and 2 Phil. and Mar. c. 13. The Sheriff shall certify the names of all prisoners in his custody to the Justices of Gaol-delivery. A repeal of the Stat. of 1 R. 3. c. 3. touching bailing of prisoners. Kelyng 3. See 31 Car. 2. c. 2. sect. 7. for bailing persons committed for treason or felony, and not indicted the next term.

Enforced by 13 El. c. 5. And see farther 27 Eliz. c. 4. also 29 Car. 2. c. 3. and 3 W. and M. c. 14.

1 Salk. 205. Mod. cases in law 314. Dyer 77. Cro. El. 588, 659. Cro. Car. 145. 19 H. 7. c. 20. Salk. 205. Raym. 134. Co. pla. f. 2, 24, 162, 292.

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English Statutes Made of Force.

Confirmed by
19 H. 7. c. 20.
And see 13 Car.
2 stat. 2. c. 2.
sect. 2. which
gives double
costs on
affirmance
after verdict;
and 4 Ann.
c. 16. sect. 25.

same judgment be affirmed good in the said writ of error, and not erroneous, or that the said writ of error be discontinued in the default of the party, or that any person or persons that sueth writ or writs of error be non-sued in the same, that then the said person or persons, against whom the said writ of error is sued, shall recover his costs and damage for his delay and wrongful vexation in the same, by discretion of the justice afore whom the said writ of error is sued.

which provides farther for costs on quashing Writs of Error.

A. D. 1487.
4 H. 7. c. 12.

All Justices of Peace shall execute their Commission, redress injuries, and maintain the Laws.

4 Inst. 170

ITEM, the King our Sovereign Lord considereth, that by the negligence, misdeameaning, favour, and other inordinate causes of justices of peace in every shire of this his realm, the laws and ordinances made for the politique weal, peace, and good rule of the same, and for the perfect surety and restful living of his subjects of the same, be not duly executed according to the tenor and effect that they were made and ordained for; [2] wherefore his subjects been grievously hurt, and out of surety of their bodies and goods, to his great displeasure; for to him is nothing more joyous than to know his subjects to live peaceably under his laws, and to increase in wealth and prosperity; [3] and to avoid such enormities and injuries, so that his said subjects may live restfully under his peace and laws, to their increase, [4] He will that it be enacted, that every justice of peace within every shire of this realm, within the shire where he is justice of peace, do cause openly and solemnly to be proclaimed yearly four times a year, in four principal sessions, the tenor of this proclamation to this bill annexed; [5] and that every justice of peace being present at any of the said sessions, if they cause not the said proclamation for to be made in form above said, shall forfeit unto our Sovereign Lord at every time xxs.

1 R. 3. c. 3.
Every Justice
of Peace shall
cause this
Proclamation
to be made 4
times in the
year.

The benefit of
husbandry.

II. The King our Sovereign Lord considereth, how daily within this realm, his coin is traiterously counterfeited, murders, robberies, felonies, been grievously committed and done, and also unlawful reteinors, idleness, unlawful plays, extortions, misdeameanings of sheriffs, escheators, and many other enormities and unlawful demeanings, daily grown more and more within this realm, to the great displeasure of God, hurt and impoverishing of his subjects, and to the subversion of the policy and good governance of this his realm; for by these said enormities and mischiefs his peace is broken, his subjects troubled, inquieted and impoverished, the husbandry of this land decayed, whereby the Church of England is upholden, the service of God continued, every man thereby hath his sustenance, every inheritor his rent for his land: [2] For repressing and avoiding of the said mischief, sufficient laws and ordinances have been made by authority of many and divers Parliaments holden within this realm, to the great cost of the King, his Lords and Commons of the same, and lacketh nothing, but that the said laws be not put in due execution, which laws ought to be put in due execution by the justices of peace of every shire of this realm, to whom his Grace hath put and given full authority so to do sith the beginning of his reign. [3] And now it is come to his knowledge, that his subjects be little eased of the said mischiefs by the said justices, but by many of them rather hurt than helped; and if his subjects complain to these justices of peace, of any wrongs done to them, they have thereby no remedy, and the said mischiefs do increase, and be not subdued. [4] And his

The slackness
of Justices of
Peace in the
due execution
of the laws.

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Grace considereth, that a great part of the wealth and prosperity of this land standeth in that, that his subjects may live in surety under his peace in their bodies and goods, and that the husbandry of this land may increase and be upholden, which must be had by due execution of the said laws and ordinances, chargeth and commandeth all the justices of the peace of this his shire, to endeavour them to do and execute the tenor of their commission, and the said laws and ordinances ordained for the subduing of the premises, as they will stand in the love and favour of his grace, and in avoiding of the pains that he ordained if they do the contrary. [5] And moreover he chargeth and commandeth, that every man, what degree or condition that he be of, that let them in word or deed, to execute their said authority in any manner form above said, that they shew it to his Grace; and if they do not, and it come to his knowledge by other than by them, they shall not be in his favour, but taken as men out of credence, and be put out of commission forever. [6] And over this he chargeth and commandeth all manner of men, as well the poor as the rich, (which be to him all one in due ministration of justice) that is hurt or grieved in any thing that the said justice of peace may hear, determine, or execute in any wise, that he so grieved make his complaint to the justice of peace that next dwelleth unto him, or to any of his fellows, and desire a remedy; [7] and if then he hath no remedy, if it be nigh such time as his justices of assizes come into that shire, that then he so grieved shew his complaint to the same justices; [8] and if then he have no remedy, or if the complaint be made long afore the coming of the justices of assize, then he so grieved come to the King's Highness, or to his chancellor for the time being, and shew his grief; [9] and his said highness then shall send for the said justices, to know the cause why his said subjects be not eased, and his laws executed; whereupon if he find any of them in default of executing of his laws in the premises, according to his high commandment, he shall do him so offending to be put out of the commission, and further to be punished according to his demerits. [10] And over that, his said highness shall not let for any favour, affection, cost, charge, nor other cause, but that he shall see his laws to have plain and true execution, and his subjects to live in surety of their lands, bodies, and goods, according to his said laws, and the said mischiefs to be avoided, that his subjects may increase in wealth and prosperity, to the pleasure of God.

Justices neglecting to execute their commissions or any one obstructing them, liable to pains and the King's displeasure. Persons grieved may complain to the Justices of Peace, and if they have no remedy, to the Justices of Assize, and then to the King or his Chancellor. The punishment of the Justice found guilty of omitting his duty. See farther for the duty, &c. of Justices of the Peace, 1 and 2 P. and M. c. 13. 2 and 3 P. and M. c. 10.

Clergy shall be allowed but once. A convict Person shall be marked with the Letters M. or T. 4 H. 7, c. 13.

ITEM, Whereas upon trust of the Privilege of the Church, divers persons lettered have been the more bold to commit murder, rape, robbery, theft, and all other mischievous deeds, because they have been continually admitted to the benefit of the clergy as oft as they did offend in any of the premises; (2) in avoiding such presumptuous boldness, it is enacted, That every person, not being within orders, which once hath been admitted to the benefit of his clergy, ifsoons arraigned of any such offence, be not admitted to have the benefit or privilege of his clergy; (3) And that every person so convicted for murder, to be marked with an *M* upon the brawn of the left thumb; and if he be for any other felony, the same person to be marked with a *T* in the same place of the thumb, and those marks to be made by the Gaoler openly in the court before the Judge, before that such person be delivered to the Ordinary.

Clergy shall be allowed but once. Hob. 288, 294. A person convicted shall be marked with the letters *M* or *T*. Rast. Pla. f. 56. Co. Lit. 50. Bro. Coron. 211.

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*English Statutes Made of Force.*A. D. 1494.
11 H. 7, c. 12.*A Mean to help and speed poor Persons in their Suits.*

PRAYEN the Commons in this present Parliament assembled, That where the King our Sovereign Lord, of his most gracious disposition, willeth and intendeth indifferent justice to be had and ministered according to his common laws, to all his true subjects, as well to the poor as rich, which poor subjects be not of ability ne power to sue according to the laws of this land for the redress of injuries and wrongs to them daily done, as well concerning their persons and their inheritance, as other causes; (2) For remedy whereof, in the behalf of the poor persons of this land, not able to sue for their remedy after the course of the common law; be it enacted, That every poor person or persons, which have or hereafter shall have cause of action or actions against any person or persons within this realm, shall have by the discretion of the Chancellor of this realm for the time being, writ or writs original, and writs of subpoena, according to the nature of their causes, therefore nothing paying to your Highness for the seals of the same, nor to any person for the writing of the same writ and writs to be hereafter sued; (3) and that the said Chancellor for the time being shall assign such of the clerks which shall do and use the making and writing of the same writs, to write the same ready to be sealed, and also learned counsel and attornies for the same, without any reward taking therefore: (4) And after the said writ or writs be returned, if it be afore the King in his Bench, the Justices there shall assign to the same poor person or persons, Counsel learned by their discretions, which shall give their counsels nothing taking for the same: (5) And likewise the Justices shall appoint attorney and attornies for the same poor person or persons, and all other officers requisite and necessary to be had for the speed of the said suits to be had and made, which shall do their duties without any reward for their counsels, help and business in the same: (6) And the same law and order shall be observed and kept of all such suits to be made afore the King's Justices of his Common Place, and Barons of his Exchequer, and all other Justices in the Courts of Record where any such suit shall be.

A. D. 1496.
12 H. 7, c. 7.*Of Murder.*

No lay person
which doth
purposely murder
his master,

BE it ordained, if any lay person hereafter prepensedly murder their lord, master, or sovereign immediate, they hereafter shall not be admitted to their clergy.

&c. shall have his clergy. 23 H. 8, c. 1. 1 Ed. 6, c. 12.

A. D. 1568.
19 H. 7, c. 9.*Process in Actions upon the Case sued in the King's Bench and Common Pleas.*

What process
shall be awarded
in Actions
upon the Case
sued in the
King's Bench,
or Common
Bench.
Bro. Erigent,
29. 1 Ed. 148,
259, 260.

FORASMUCH as before this time there hath been great delays in actions of the case, that hath been sued as well before the King in his Bench, as in his Court of his Common Bench, because of which delays many persons have been put from their remedy: (2) Be it therefore enacted, That like process be had hereafter in Actions upon the Case, as well sued and hanging, as to be sued, in any of the said courts, as in actions of trespass or debt.

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Writs of Error.

19 H. 7. c. 20.

PRAYEN the Commons in this present Parliament assembled, That where at a Parliament holden at Westminster in the third year of the reign of our Sovereign Lord the King that now is, by the advice of the Lords Spiritual and Temporal, and the Commons, in the same Parliament assembled, and by authority of the same, it was enacted, ordained, and established, among other things, That if any defendant or tenant, defendants or tenants, or any other that shall be bound by any judgment, sue afore execution had, any writ of error to reverse any such judgment in delaying of execution of the party, (2) that then if the same judgment be affirmed good in the said writ of error, and not erroneous, or that the said writ of error be discontinued in the default of the party, or the person or persons that sueth the writ or writs of error be nonsuited in the same, that then the said person or persons, against whom the said writ of error is so sued, shall recover his costs and damages for his delay and wrongful vexation in the same, by discretion of the Justices afore whom the said Writ of Error is sued: (3) Which Act or Ordinance hath not been as yet duly put in execution, by reason whereof, as well plaintiffs as demandants, in divers actions by them sued sith the making of the said statute, have been oftentimes delayed of their execution, to their great and importable hurt, loss, and charges: (4) Wherefore the King, by the advice of the Lords spiritual and temporal and the Commons, enacteth, That the said Act made in the 3d year of his reign, concerning the premises, be good and effectual, and that from henceforth it be duly put in execution.

A Confirmation of the statute of 3 H. 7. c. 10, touching costs awarded to the plaintiff, where the defendant sueth a Writ of Error. See farther 13 Car. 2, stat. 2, c. 2, sect. 9, which gives double damages on affirmation of the verdict; and 4 Ann. c. 16, sect. 25, which provides farther for costs on quashing writs of error.

The Act of Escheators and Commissioners.
(See Escheat Act, 28th March, 1788.)

A. D. 1508.
1 H. 8. c. 8.

Punishment of Murders. Causes of emboldening Men to commit Murders and Felonies. The Benefit of Clergy taken away from such as commit Murder or Felony in any Church, Highway, &c.

A. D. 1512.
4 H. 8. c. 2.
Rep.
23 H. 8. c. 1.
1 Ed. 6, c. 12.
5 & 6 Ed 6, c. 9.

The Sale of Lands by Part of the Executors, lawful.

A. D. 1529.
21 H. 8. c. 4.

WHERE divers sundry persons before this time, having other persons seised to their use of and in lands and other hereditaments, to and for the declaration of their wills, have by their last wills and testaments willed and declared such their said lands, tenements, or other hereditaments, to be sold by their executors, as well to and for the payments of their debts, performance of their legacies, necessary and convenient finding of their wives, virtuous bringing up and advancement of their children to marriage, as also for other charitable deeds to be done and executed by their executors for the health of their souls. (2) And notwithstanding such trust and confidence so by them put in their said executors, it hath oftentimes been seen, where such last wills and testaments of such lands, tenements, and other hereditaments have been declared, and in the same divers executors named and made, that after the decease of such testators some of the same executors, willing to accomplish the trust and confidence that they were put in by the said testator, have accepted and taken upon them the charge of the said testament, and have been ready to fulfil and perform all things contained in the same; and the residue of the same executors, uncharitably contrary to

A. D. 1529.
21 H. 8. c. 4.
2 Roll. 336.
Land devised to be sold by divers Executors, cannot by common law be sold by part of them. 4 Ed. 3, c. 7. 25. Ed. 3, stat. 5, c. 5.

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Part of the Executors, who take upon them the charge of a will, may sell any land devised by the testator to be sold. 3 Cro. 80. Br. Devise, 10, 31. Co. Lit. 113, 2.

the trust that they were put in, have refused to intermeddle in any wise with the execution of the said will and testament, or with the sale of such lands so willed to be sold by the testator. (3) And forasmuch as a bargain and sale of such lands, tenements, or other hereditaments so willed by any person to be sold by his executors after his decease, after the opinion of divers persons, can in no wise be good or effectual in the law, unless the same bargain and sale be made by the whole number of the executors named to and for the same; (4) by reason whereof, as well the debts of such testators have rested unpaid and unsatisfied, to the great danger and peril of the souls of such testators, and to the great hinderance, and many times to the utter undoing of their creditors: (5) As also the legacies and bequests made by the testator to his wife, children, and for other charitable deeds to be done for the wealth of the soul of the same testator that made the same testament, have been also unperformed, as well to the extreme misery of the wife and children of the said testator, as also to the let of performance of other charitable deeds for the wealth of the soul of the said testator, to the displeasure of Almighty God. (6) For remedy whereof, be it enacted, That where part of the executors named in any such testament of any such person so inaking or declaring any such will of any lands, tenements, or other hereditaments to be sold by his executors, after the death of any such testator, do refuse to take upon him or them the administration and charge of the same testament and last will wherein they be so named to be executors, and the residue of the same executors do accept and take upon them the cure and charge of the same testament and last will; that then all bargains and sales of such lands, tenements, or other hereditaments, so willed to be sold by the executors of any such testator, as well heretofore made, as hereafter to be made by him or them only of the said executors that so doth accept, or that heretofore hath accepted and taken upon him or them any such cure or charge of administration of any such will or testament, shall be as good and as effectual in the law, as if all the residue of the same executors named in the said testament, so refusing the administration of the same testament, hath joined with him or them in the making of the bargain and sale of such lands, tenements, or other hereditaments, so willed to be sold by the executors of any such testator, which heretofore hath made or declared, or that hereafter shall make or declare any such will, of any such lands, tenements, or other hereditaments, after his decease to be sold by his executors.

Wills made before this statute.

See farther concerning Executors, 43 El. c. 8. 30 Car. 2. c. 7. 4 & 5 W. of any will or testament heretofore made, otherwise than they might do by the course of the common law afore the making this Act. & M. c. 24, s. 12. & A. A. 1787 & 1789.

II. Provided alway, That this Act shall not extend to give power or authority to any executor or executors at any time hereafter to bargain or put to sale any lands, tenements, or hereditaments, by virtue and authority of any will or testament heretofore made, otherwise than they might do by the course of the common law afore the making this Act.

21 H. 8, c. 11.

At what time Restitution shall be made of Goods stolen.

There shall be restitution of stolen goods after the attainder of the felon.

BE it enacted, That if any felon or felons hereafter do rob, or take away any money, goods or chattles, from any of the King's subjects, from their person or otherwise, within this realm, and thereof the said felon or felons be indicted, and after arraigned of the same felony, and found guilty thereof, or otherwise attainted by reason of evidence given by the party so robbed, or owner of the said money, goods or chattles, or by any other by their procurement, that then the party so robbed, or owner, shall be

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restored to his said money, goods, and chattles; (2) and that as well the justices of gaol-delivery, as other justices, afore whom any such felon or felons shall be found guilty, or otherwise attainted, by reason of evidence given by the party so robbed, or owner, or by any other by their procurement, have power, by this present Act, to award, from time to time, writs of restitution for the said money, goods and chattles, in like manner as though any such felon or felons were attainted at the suit of the party in appeal.

2 Bulstr. 310.
Cro El. 661.
Kelyng 48.
5 Co. 110.

For Abjurations and Sanctuaries.

VI. No person arraigned for any petit treason, murder, or felony, be from henceforth admitted to any peremptory challenge above the number of xx.*

A. D. 1530.
22 H. 8, c. 14.
No person
arraigned may
challenge
above xx.

* The rest of this Act not made of force.

An Act concerning Convicts in Petit Treason, Murder, &c.

A. D. 1531.
23 H. 8, c. 1.

III. Be it enacted, That no person nor persons, which hereafter shall happen to be found guilty after the laws of this land, for any manner of petit treason, or for any wilful murder of malice prepensed, or for robbing of any churches, chapels, or other holy places, or for robbing of any person or persons in their dwelling houses, or dwelling place, the owner or dweller in the same house, his wife, his children or servants then being within, and put in fear and dread by the same, or for robbing of any person or persons in or near about the highways, or for wilful burning of any dwelling houses, or barns wherein any grain or corn shall happen to be, nor any person or persons being found guilty of any abetment, procurement, helping, maintaining, or counselling, of or to any such petit treasons, murders, or felonies, shall from henceforth be admitted to the benefit of his or their clergy, but utterly be excluded thereof, and suffer death in such manner and form as they should have done for any the causes or offences abovesaid, if they were no clerks; such as be within holy orders, that is to say, of the orders of sub-deacon, or above, only except.

A. D. 1531.
23 H. 8, c. 1.
Co. Pl. f. 352.
Clergy taken
from several
persons which
do commit
diverse offences.
Extended to
counties where
the robbery,
&c. was not
committed.
3 Inst. 64, 67, 115.
1 Ed. 6, c. 12.
Kelyng. 67, 68.
69. Dyer, f. 224.
11 Co. 29.
Extended to
robberies in
booths or tents,
&c. by 5 & 6
Ed. 6, c. 9.
1 Bulstr. 112.

An Act against Perjury and Untrue Verdicts.

23 H. 8, c. 3.

THE King our Sovereign Lord, of his most goodly and gracious disposition, calling to his remembrance how that perjury in this land is in manifold causes by unreasonable means detestably used, to the disheritance and great damage of many and great numbers of his subjects well-disposed, and to the most high displeasure of Almighty God, the good statutes against all officers having returns of writs and their deputies, making panels partially for rewards to them given, against unlawful maintainers, embraceors and jurors, and against jurors untruly giving their verdict, notwithstanding;—for reformation whereof, and forasmuch as the late noble King Henry the 7th provided remedy for the same by a statute made in the 11th year of his reign, which statute is now expired :

II. Be it therefore enacted. That upon every untrue verdict hereafter given betwixt party and party, in any suit, plaint, or demand, before any Justices or Judges of Record, where the thing in demand, and verdict thereupon given, extendeth to the value of xl. li. and concerneth not the jeopardy of man's life, the party grieved by the same verdict shall have a writ

Attaint where
the thing in de-
mand extendeth
to xlii. and con-
cerneth not
man's life.
Dyer, f. 81.

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Co. Lit. 294.
Cro. El. 350.
Moor 17.
The process in
attaint.
Jurors in attaint
must be worth
20 marks a year.

Distress, when
to be awarded.
The grand jury
awarded by
default.

Pleas of the
petit jury in
attaint.
Rast. Pl. f. 92.
Kel. 55.
Dyer. 173.
Pleas of the
Defendant in
attaint.

Forfeiture of
the petit jury
attainted.
Dyer, 250.

If the plea of
the party de-
fendant be
found against
him.
Rast. Pla. f. 86.

Outlawry or ex-
communication
no plea against
the plaintiff in
forfeiture of the
Grand Jury
making default
of appearance.

How long the
attaint is
maintainable.

of attaint against every person hereafter so giving an untrue verdict, and every of them, and against the party which shall have judgment upon the same verdict; (2) and that in the same attaint there shall be awarded against the petit jury, the party, and the grand jury, summons, resummons, and distress infinite, which grand jury shall be of like number as the grand jury is now in attaint, and every of them that shall pass in the same, shall have lands and tenements to the value of 20 marks by the year of freehold, out of the ancient demean; (3) and upon the distress, which shall be delivered of record upon the same, open proclamation to be made in the court there; (4) the distress shall be awarded more than fifteen days afore the return of the said distress, and every such distress shall be made upon the land of every of the said grand jury, as in other distresses is and hath been used; (5) and if the said party defendant, or the petit jurors, or any of them, appear not upon the distress, then the grand jury to be taken against them and every of them that shall so make default; (6) and if any of the said petit jury appear, then the party complainant in that behalf shall assign the false serement of the first verdict untrue given, whereunto they of the petit jury shall have no answer, if they be the same persons, and the writ, process, return, and assignment good and lawful, except that the demandant or plaintiff in the same attaint hath afore been nonsuit, or discontinued his suit of attaint taken for the same, or hath for the same verdict, in a writ of attaint, had judgment against the said petit jury, but only that they made true serement, which issue shall be tried by twenty-four of the said grand jury; (7) and the party shall plead that they gave true verdict, or any other matter which shall be a sufficient bar of the said attaint; (8) and that plea notwithstanding the grand jury to be taken without delay, to enquire whether the first jury gave true verdict or no.

III. And if they find that the said petit jury gave untrue verdict, then every of the said petit jury to forfeit xx. li. whereof the one half shall be to the King our Sovereign Lord, and the other half to the party that sueth.

IV. And over that, That every of the said petit jury shall severally make fine and ransom, by the discretion of the justices before whom the said false serement shall be found, after their several offences, defaults, and sufficiency of every of the said petit jury; (2) and after that, those of the said petit jury so attainted shall never after be in any credence, nor their oath accepted in any court; (3) and if such plea as the party pleadeth, which is a bar of the said attaint, be found, or deemed against him that so pleadeth, then the party that so sueth, shall have judgment to be restored to that he lost, with his reasonable costs and damages.

V. Foreseen alway, That any *utlare* in action or cause personal, or *excommengement* pleaded or alledged in the party, plaintiff or demandant, shall be taken but as a void plea, and to that he shall not be put to answer; (2) and that in all the aforesaid process such day shall be given as in a writ of dower, and none essoin or protection to lie, nor to be allowed in the same; (3) and if the said grand jury appear not upon the first distress had against them, so that the jury for their default do remain, he that maketh default shall forfeit to the King xx. s. and upon the second default xl. s. and after making default, for every such default, v. li. and like penalties and forfeitures to be against them, and every of them, that shall be named in the *Tales*, as is before expressed against every of the said grand jury aforesaid; (4) and that for and by the death of the party, or any of the

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said petit jury, the said attaint shall not abate, nor be deferred against the remnant, as long as two of the said petit jury be alive.

VI. And if hereafter any false verdict be given in any action, suit or demand, afore any justice or judge of record, of any thing personal, as debt, trespass, and other like, which shall be under the value of xl. li. that then the party grieved shall have attaint, with such process and pleas as is afore rehearsed, and delays to be taken away, as is afore remembered; (2) except that in this case of attaint, every person of the grand jury that may dispend v. marks by the year of freehold out of ancient demean, or is worth an hundred marks of goods and chattles, shall be able to pass in the same attaint. (3) And if the petit jury be attained, that then they shall in this case of attaint every of them to forfeit v. li. whereof one half to be to the King, and the other half to the party, after the form afore rehearsed, and over that to make fine and ransom by the discretion of the justices, as is aforesaid.

VII. And if there be not persons of such sufficiency within the shire or place where any of the said attaints shall be taken, as may pass into the same, be it ordained by the authority abovesaid, That then one *Tales* shall be awarded into the shire next adjoining, by the discretion of the justices afore whom the same attaints shall be taken, which shall be warned to appear upon like pains as aforesaid, and enabled to pass in the said attaints, as if they were dwelling in the shire where the same attaint shall be taken. (2) And that the same laws, action and remedy ordained by this present Act, be kept for and to all them that shall be grieved by such untrue verdicts of any inheritance in descent, reversion, remainder, or of any freehold in reversion or remainder. (3) And if the party in attaint given by this Act be nonsuit, or the same discontinue, that then the same party so nonsuit, or so discontinuing the said attaint, make fine and ransom by the discretion of the justices afore whom the said attaint shall be taken and depending.

VIII. And that all attaints hereafter to be taken, shall be taken afore the King in his Bench, or afore the justices of the common place, and none in other courts; (2) and that *Nisi Prius* shall be granted by discretion of the justices upon the distress; (3) and every of the said petit jury may appear, and answer by attorney in the said attaint; (4) and that the moiety of the said forfeiture of the petit jury shall be levied to the use of our Sovereign Lord the King by *Capias ad satisfaciendum*, or *Fieri fac'* or *Elegit*, or by action of debt against every person of the petit jury so forfeiting, and against his executors and administrators, having then sufficient goods of their said testator not administered, and the other moiety shall by like process be levied to the use of the party that sueth any attaint given by this Act against every of the said petit jury and his executors or administrators, having then sufficiency of goods as is aforesaid, not administered; (5) and the judgment of restitution to the party grieved suing this Act, and execution thereof to be had, and like judgment for the party defendant, or tenant, to be discharged of restitution, as afore this present Act in case of a grand attaint hath been used; (6) and if there be divers plaintiffs or demandants in attaint, that the nonsuit or release of any of them shall not be in any wise hurtful or prejudicial to the residue, but that they and every of them in such cases may be summoned and severed, like as it is used when there be divers demandants in actions real.

Attain of a thing under the value of xl. li.
Dyer 120.
1 Leon. 279.

Tales in another county if there be not sufficient free holders in the same county.

An Attain for him in reversion or remainder.
Nonsuit in attaint.

Attaints must be sued in the King's Bench of Common Place.
Dyer 202.
Moor 17. Pl. 60.
Dyer 235.
Nisi Prius in attaint.
Attorney in attaint.
Judgment and execution in attaint.
The nonsuit or release of one plaintiff shall not prejudice his companions.
Rast. pl. f. 84.
Dyer, f. 201.

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IX. Be it also enacted, That in every writ of attaint hereafter to be taken by or upon this Act, the which shall be such as other writs of attaint be, and after the *teste* of the same writ shall be written these words in Latin: *Per statutum continuatum usque annum vicesimum tertium domini Henr' octavi, Dei gratia Angliæ et Franciæ Regis, fidei defens' et domini Hiberniæ.*

23 H. 8, c. 15. *An Act that the Plaintiff being nonsuited, shall yield damages to the Defendants in Actions personal, by the discretion of the Justices.*

BE it enacted, That if any person or persons, at any time after the Feast of the *Purification* of our Lady, in the 23d year of the reign of our Sovereign Lord King Henry the 8th, commence or sue in any court of record, or elsewhere in any other court, any action, bill, or plaint, of trespass upon the statute of King Richard the 2d, made in the 5th year of his reign, for entries into lands and tenements, where none entry is given by the law, (2) or any action, bill, or plaint of debt or covenant, upon any especialty made to the plaintiff or plaintiffs, (3) or upon any contract supposed to be made between the plaintiff or plaintiffs, and any other person or persons, (4) or any action, bill, or plaint of detinue of any goods or chattles, whereof the plaintiff or plaintiffs shall suppose that the property belongeth to them, or to any of them, (5) or any action, bill, or plaint of account, in the which the plaintiff or plaintiffs suppose the defendant or defendants to be their bailiff or bailiffs, receiver or receivers of their manor, mese, money, or goods, to yield account, (6) or any action, bill, or plaint upon the case, or upon any statute, for any offence or wrong personal, immediately supposed to be done to the plaintiff or plaintiffs, (7) and the plaintiff or plaintiffs in any such kind of action, bill, or plaint, after appearance of the defendant or defendants be nonsuited, or that any verdict happen to pass, by lawful trial, against the plaintiff or plaintiffs in any such action, bill, or plaint, that then the defendant or defendants in every such action, bill, or plaint, shall have judgment to recover his costs against every such plaintiff or plaintiffs; (8) and that to be assessed and taxed by the discretion of the judge or judges of the court where any such action, bill, or plaint shall be commenced, sued, or taken; (9) and also that every defendant in such action, bill or plaint shall have such process and execution for the recovery and having of his costs against the plaintiff or plaintiffs, as the same plaintiff or plaintiffs should or might have had against the defendant or defendants, in case that judgment had been given for the part of the said plaintiff or plaintiffs, in any such action, bill, or plaint.

He that sueth in forma pauperis shall be otherwise punished.

1 Roll. 88.

Farther provisions concerning

Costs, 8 El. c. 2.

4 Jac. 1, c. 3.

13 Car. 2, st. 2, c. 2.

4 Ann, c. 16.

II. Provided alway, That all and every such poor person or persons being plaintiff or plaintiffs in any of the said actions, bills, or plaints, which at the commencement of their suits or actions be admitted by discretion of the judge or judges, where such suits or actions shall be pursued or taken, to have their process and counsel of charity, without any money or fee paying for the same, shall not be compelled to pay any costs by virtue and force of this statute, but shall suffer other punishment, as by the discretion of the justices or judge, afore whom such suits shall depend, shall be thought reasonable; any thing afore rehearsed to the contrary hereof notwithstanding.

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*That a Man killing a Thief in his Defence shall not forfeit his Goods.*A. D. 1532.
24 H. 8, c. 5.

FORASMUCH as it hath been in question and ambiguity, that if any evil disposed person or persons do attempt feloniously to rob or murder any person or persons in or nigh any common highway, cart-way, horse-way, or foot-way, or in their mansions, messuages, or dwelling-places, or that feloniously do attempt to break any dwelling-house in the night-time, should happen in his or their being in their such felonious intent, to be slain by him or them whom the said evil-doers should so attempt to rob or murder, or by any person or persons being in their dwelling-house, which the same evil-doers should so attempt burglarly to break by night; if the said person so happening in such cases to slay any such person, so attempting to commit murder or burglary, should for the death of the said evil disposed person forfeit or lose his goods and chattles for the same, as any other person should do that by chance-medley should happen to kill or slay any other person in his or their defence; (2) For the declaration of the which ambiguity and doubt, be it enacted, That if any person or persons, at any time hereafter, be indicted or appealed of or for the death of any such evil disposed person or persons attempting to murder, rob, or burglarly to break mansion-houses, as is abovesaid, that the person or persons so indicted or appealed thereof, and of the same by verdict so found and tried, shall not forfeit or lose any lands, tenements, goods, or chattles, for the death of any such evil disposed person in such manner slain, but shall be thereof, and for the same fully acquitted and discharged, in like manner as the same person or persons should be if he or they were lawfully acquitted of the death of the said evil disposed person or persons.*

There shall be no forfeiture of lands or goods for the killing of any person that attempted to murder or rob.
Cro. Car. 544.

* See Escheat Law, 28 March, 1788.

*For such as stand Mute, &c.*A. D. 1533.
25 H. 8, c. 3.

WHERE at your Parliament holden at Westminster, in the 23 year of your most noble reign, among other things it was ordained, established, and enacted, That no person or persons which thereafter should happen to be found guilty, after the laws of this land, for any manner of petit treason, or of any wilful murder of malice prepensed, or for robbing of any churches, chapels or other holy places, or for robbing of any person or persons in their dwelling-houses or dwelling-place, the owner or dweller in the same house, his wife, his children, or servants then being within, and put in fear and dread by the same, or for robbing of any person or persons in or near about the highway, or for wilful burning of any dwelling-houses or barns wherein any grain or corn shall happen to be; nor any person or persons being found guilty of any abetment, procurement, helping, maintaining, or counselling of or to any such petit treasons, murders or felonies, should from thenceforth be admitted to the benefit of his or their clergy, but utterly be excluded thereof, and suffer death in such manner and form, as they should have done for any the causes or offences aforesaid, if they were no clerks; such as be within holy orders, that is to say, of the orders of sub-deacon or all above only except, as more at large appeareth by the said Act. [2] And forasmuch as the said Act extendeth only to such persons as be found guilty after the due course of the laws of this land, divers and many great errant robbers, murtherers, burglars and felons, that do offend

1 Anders. 114.
Clergy not allowed to those who stand mute, or who do make peremptory challenge.

Certain defects in the statute of 23 H. 8. c. 1.

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and commit divers and many petit treasons, robberies, burglaries and felonies, contrary to the tenor of the said Act, perceiving and clearly understanding, by the words of the same statute and act, that they shall not lose the benefit and advantage of their clergy, unless they be found guilty after the due course of the law, upon their arraignment of and upon the said felonies, robberies, and other offences before said, so by them done and committed, by reason whereof, divers and many of the same robbers and felons, upon their arraignment of the same robberies and felonies, upon their indictments against them stand mute, and sometimes challenge peremptorily over the number of 20, or else will not directly answer to the same indictments whereupon they be so arraigned, according to the order of the law. (3) And for that these especial cases be not expressly comprised and contained within the letter of the same statute, it is necessary and expedient that the same case be clearly and definitively expounded and declared by authority of this present Parliament. (4) And whereas also divers and many felons and robbers, that commit and do divers and many great heinous robberies and burglaries in one shire, and convey the spoil and robbery into any other shire, and there be taken, indicted, and arraigned upon felony and felonious stealing of the same goods in the same other shire, than there where the same robberies or burglaries were done and committed, and not upon the same robbery nor burglary, for that it was not done nor committed in the same shire where they be so indicted and arraigned, and by reason thereof the same misdemeanours, felons, robbers, and burglars, have and enjoy the privilege and advantage of their clergy, to the great hurt and loss of the King's prerogative, and great boldness of such offenders.

Cases in which
the benefit of
Clergy shall
not be allowed.

II. In consideration whereof, be it enacted, That every person and persons that is or hereafter shall be indicted of petit treason, wilful burning of houses, murder, robbery, or burglary, or other felony, according to the tenor and meaning of the same statute, and thereupon arraigned, and do stand mute of malice or froward mind, or challenge peremptorily above the number of 20, or else will not or do not answer directly to the same indictment and felony whereupon he is so arraigned, shall from henceforth lose the benefit and privilege of his or their clergy, in like manner and form as if he had directly pleaded to the same petit treason, murder, robbery, burglary, or other felony, whereupon he is so arraigned, Not guilty, and thereupon had been found guilty, after the laws of the land.

A man attainted
where the
goods were
carried which
were stolen in
another county.
23 H. 8. c. 1.
For farther
provisions
concerning
burglary, see 5
and 6. Ed. 6. c.
9. 3 W. and
M. c. 9. and A.
A. 23 Aug.
1769.

III. And if any person or persons hereafter be indicted of felony for stealing of any goods or chattles in any county within this realm of England, and thereupon arraigned and be found guilty, or stand mute of malice, or challenge peremptorily above the number of 20 persons, as is aforesaid, or will not upon his said arraignment directly answer to the same felony, that then the same person and persons so arraigned and found guilty, or stand mute of malice, or challenge peremptorily above the number of 20 persons, or will not directly answer to the law, shall lose and be put from the benefit and of their clergy, in like manner and form as they should have been, if they had been indicted and arraigned, and found guilty in the same county where the same robbery or burglary was done or committed, if it shall appear to the justices before whom any such felons or robbers be arraigned, by evidence given before them, or by examination, that the same felonies, whereupon they be so arraigned, had been such robberies or burglaries in the same shire where such robberies or burglaries were committed or done, by reason whereof they should have

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lost the benefit of their clergy by force of the said statute, in case they had been found guilty thereof in the same shire where such robberies or burglaries were so committed or done.

The Punishment of the vice of Buggery.

25 H. 8. c. 6.

FORASMUCH as there is not yet sufficient and condign punishment appointed and limited by the due course of the laws of this realm, for the detestable and abominable vice of buggery committed with mankind or beast: [2] It may therefore be enacted, that the same offence be from henceforth adjudged felony, and such order and form of process therein be used against the offenders as in cases of felony at the common law; [3] and that the offenders being hereof convict by verdict, confession, or outlawry, shall suffer such pains of death, and losses and penalties of their goods, chattles, debts, lands, tenements and hereditaments, as felons be accustomed to do, according to the order of the common laws of this realm; [4] and that no person offending in any such offence, shall be admitted to his clergy; [5] and that Justices of Peace shall have power and authority, within the limits of their commissions and jurisdiction, to hear and determine the said offence, as they do use to do in case of other felonies.

He that committeth buggery with mankind or beast shall be adjudged a felon. Revived and made perpetual by 5 Ed. c. 17.

*For Pirates and Robbers on the Sea.*A. D. 1535.
27 H. 8. c. 4.

WHERE pirates, thieves, robbers and murderers upon the sea, many times escape unpunished, because the trial of their offences hath heretofore been ordered before the admiral, or his lieutenant or commissary, after the course of the civil laws, the nature whereof is, that before any judgment of death can be given against the offenders, either they must plainly confess their offence, (which they will never do without torture or pains) or else their offences be so plainly and directly proved by witnesses indifferent, such as saw their offences committed, which cannot be gotten but by chance at few times, because such offenders commit their offences upon the sea, and at many times murder and kill such persons being in the ship or boat where they commit their offences, which should bear witness against them in that behalf, and also such as should bear witness be commonly mariners and shipmen, which for the most part cannot be gotten ne had always ready to testify such offences, because of their often voyages and passages in the seas, without long tarrying or protraction of time, and great costs and charges, as well of the King's highness, as of such as would pursue such offenders; [2] for reformation whereof, be it enacted, that all such offences done in or upon the sea, or in any other haven, river or creek, where the admiral or admirals pretend to have jurisdiction, shall be enquired, tried, heard and determined in such shires and places in this realm as shall be limited by the King's commission to be directed for the same, in like form and condition as if such offences had been done upon the land; [3] *and that such commissions shall be had under the King's Great Seal, directed to the lord admiral or admirals, or to his or their lieutenant, deputy or deputies, and to three or four such other substantial persons as shall be named by the lord chancellor for the time being, as often as need shall require, to hear and determine such offences after the common course of the laws of the land used for felonies done and committed within this realm.

The inconvenience of the trial of piracy after the course of the civil law.

Before what persons offences committed upon the sea shall be heard and determined.

*This power is vested in the Congress of the United States.

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By what jurors shall be directed, or three of them at the least, shall have full power and authority to enquire of such offences, by the oaths of twelve good and lawful men inhabited in the shire limited in their commission, in such like manner and form as if such offences had been committed upon the land within the same shire; (2) and that every indictment found and presented before such commissioners, of any felonies, robberies, murders or man-slaughters, done upon the seas, or in or upon any other haven, river or creek, shall be good and effectual in the law; (3) and if any person or persons happen to be indicted for any such offence done or hereafter to be done upon the seas, or in any other place above limited, that then such order, process, judgment and execution shall be used, had, done and made, to and against every such person and persons so being indicted, as against felons and murderers, for murder or felony done upon the land, as by the laws of this realm is accustomed; (4) and that the trial of such offence, if it be denied by the offenders, shall be had by 12 men inhabited in the shire limited within such commission, which shall be directed as is aforesaid, and no challenge to be had for the hundred; (5) and such as shall be convict of any such offence, by verdict, confession or process, by authority of any such commission, shall have and suffer such pains of death, losses of lands, goods and chattels, as if they had been convict of any felonies or murders done upon the lands.

The trial judgment and forfeiture of offenders in piracy.

Clergy shall not be allowed to pirates.
1 Haw. P. C.
37. Vin. Aber.
v. 16. 346 to 353.

Things taken upon the sea by necessity. For farther provisions concerning pirates, see 23. H. 8, c. 15.

III. And for robberies, felonies and murder done upon the seas, or in any other places above rehearsed, the offenders shall not be admitted to have the benefit of their clergy, but be utterly excluded thereof, and also of the privilege of any sanctuary.

IV. Provided alway, that this Act extend not to be prejudicial or hurtful to any person or persons for taking of any victuals, cables, ropes, anchors or sails, which any such person or persons, compelled by necessity, taketh of or in any other ship, which may conveniently spare the same, so that the same person or persons pay out of hand for the same victual, cables, ropes, anchors or sails, money, or money-worth, to the value of the thing so taken, or deliver for the same a sufficient bill obligatory to be paid in form following; that is to say, if the taking of the same things be on this side the straits of Marroke, then to be paid within four months; and it be beyond the said straits of Marroke, then to be paid within 12 months next ensuing the making of such bills; and that the makers of such bills well and truly pay the same debt at the day to be limited within the said bills.

37 H. 8. c. 10.

An Act concerning Uses and Wills.

WHERE by the common laws of this realm, lands, tenements and hereditaments be not devisable by testament, (2) nor ought to be transferred from one to another, but by solemn livery and seisin, matter of record, writing sufficient made *bona fide*, without covin or fraud; (3) yet nevertheless divers and sundry imaginations, subtle inventions and practices have been used, whereby the hereditaments of this realm have been conveyed from one to another by fraudulent feoffments, fines, recoveries, and other assurances craftily made to secret uses, intents and trusts; (4) and also by wills and testaments, sometime made by *nude parol* and words, sometime by signs and tokens, and sometime by writing, and for the most part made by such persons as be visited with sickness, in their extreme agonies any

1 Co. f. 123.
1 Leon. 14.
2 Leon. 16.
Lane 93.
How by the common law lands ought to be transferred from one person to another.
3 Bulstr. 185, 252.
Godbolt 299. pl. 416.

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pains, or at such time as they have scantly had any good memory or remembrance; (5) at which times they being provoked by greedy and covetous persons lying in wait about them, do many times dispose indiscreetly and unadvisably their lands and inheritances; (6) by reason whereof, and by occasion of which fraudulent feoffments, fines, recoveries and other like assurances to uses, confidences and trusts, divers and many heirs have been unjustly at sundry times disherited, the lords have lost their wards, marriages, reliefs, harriots, escheats, aids *pur fair fils chivalier, and pur file marier*, (7) and scantly any person can be certainly assured of any lands by them purchased, nor know surely against whom they shall use their actions or executions for their rights, titles and duties; (8) also men married have lost their tenancies by the curtesy, (9) women their dowers, (10) manifest perjuries by trial of such secret wills and uses have been committed; (11) the King's highness hath lost the profits and advantages of the lands of persons attainted, (12) and of the lands craftily put in feoffments to the uses of aliens born, (13) and also the profits of waste for a year and a day of lands of felons attainted, (14) and the lords their escheats thereof; (15) and many other inconveniences have happened, and daily do increase among the King's subjects, to their great trouble and inquietness, and to the utter subversion of the ancient common laws of this realm; (16) for the extirping and extinguishment of all such subtle practised feoffments, fines, recoveries, abuses and errors heretofore used and accustomed in this realm, to the subversion of the good and ancient laws of the same, and to the intent that the King's highness, or any other his subjects of this realm, shall not in any wise hereafter by any means or inventions be deceived, damaged or hurt, by reason of such trusts, uses or confidences: (17) Be it enacted, that where any person or persons stand or be seized, or at any time hereafter shall happen to be seized, of and in any honours, castles, manors, lands, tenements, rents, services, reversions, remainders or other hereditaments, to the use, confidence or trust of any other person or persons, or of any body politic, by reason of any bargain, sale, feoffment, fine, recovery, covenant, contract, agreement, will or otherwise, by any manner of means whatsoever it be; that in every such case, all and every such person and persons, and bodies politic, that have, or hereafter shall have any such use, confidence or trust, in fee-simple, fee-tail, for term of life or for years, or otherwise, or any use, confidence or trust, in remainder or reverter, shall from henceforth stand and be seized, deemed and adjudged in lawful seisin, estate and possession of and in the same honours, castles, manors, lands, tenements, rents, services, reversions, remainders and hereditaments, with their appurtenances, to all intents, constructions and purposes in the law, of and in such like estates as they had or shall have in use, trust or confidence of or in the same; (18) and that the estate, title, right and possession that was in such person or persons that were, or hereafter shall be seized of any lands, tenements or hereditaments, to the use, confidence or trust of any such person or persons, or of any body politic, be from henceforth clearly deemed and adjudged to be in him or them that have, or hereafter shall have, such use, confidence, or trust, after such quality, manner, form and condition as they had before, in or to the use, confidence, or trust that was in them.

II. And where divers and many persons be, or hereafter shall happen to be, jointly seized of and in any lands, tenements, rents, reversions, remainders or other hereditaments, to the use, confidence, or trust of any of them that be so jointly seized, that in every such case that those person or

Several inconveniences ensuing by conveyance of lands to uses, and by the devising them by wills.
1 Roll 260, 327, 385.
2 Roll 170, 335, 336.
Poph. 21, 70.

Gilbert of uses and trusts. The possession of lands shall be in him or them that have the use.
1 Leon. 258.
2 Leon. 6, 15.
3 Cr. 903.
1 Co. 162.
8 Co. 94.
11 Co. 24.
Cro. El. 46. pl. 2.
Cro. Jac. 6, 401, 453.
Cro. Car. 44, 218.
1 Anders. 337.
Bro. Feoffin. all uses 55, 56, 58
Plow f. 111, 346.
Moor 859, pl. 1180.
Dyer f. 155, 235, 274, 309, 340, 349, 362, 369.
Co. 1. Inst. 237. a. 272. a.
287. a. Co. Lit. 187. b. Lord Bacon's reading on this Stat. Vin. Abr. V. 22. 176 to 291.
1 Hale's P. C. 247.

Assurances made of divers to the use of one or some of them.

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*English Statutes Made of Force.*13 Co. 55, 56.
2 Roll 246.Saving of the
right of
strangers.

persons which have or hereafter shall have any such use, confidence or trust in any such lands, tenements, rents, reversions, remainders or hereditaments, shall from henceforth have, and be deemed and adjudged to have only to him or them that have, or hereafter shall have any such use, confidence or trust, such estate, possession and seisin; of and in the same lands, tenements, rents, reversions, remainders and other hereditaments, in like nature, manner, form, condition and course, as he or they had before in the use, confidence or trust of the same lands, tenements or hereditaments; (2) saving and reserving to all and singular persons, and bodies politic, their heirs and successors, other than those person or persons which be seized, or hereafter shall be seized of any lands, tenements, or hereditaments, to any use, confidence or trust, all such right, title, entry, interest, possession, rents and action, as they or any of them had, or might have had before the making of this Act.

Saving of the
right of the
feoffees to use.
2 Lev. 126, 127.
1 Salk. 241.
1 Anders. 84.

III. And also saving to all and singular those persons, and to their heirs, which be, or hereafter shall be seized to any use, all such former right, title, entry, interest, possession, rents, customs, services and action, as they or any of them might have had to his or their own proper use, in or to any manors, lands, tenements, rents or hereditaments, whereof they be, or hereafter shall be seized to any other use, as if this present act had never been had nor made, any thing contained in this Act to the contrary notwithstanding.

2 Roll 105, 245.
7 Co. 39.
Dyer f. 349.
Moor 196. pl.
345.
Jones 197.

IV. And where also divers persons stand and be seized of and in any lands, tenements or hereditaments, in fee-simple or otherwise, to the use and intent that some other person or persons shall have and perceive yearly to them, and to his or their heirs, one annual rent of x. li. or more or less, out of the same lands and tenements, and some other person one other annual rent, to him and his assigns for term of life or years, or for some other special time, according to such intent and use as hath been heretofore declared, limited and made thereof:

Land assured
to the use, that
rent should be
paid out thereof
to some other.
1 Anders. 275,
336.

V. Be it therefore enacted, that in every such case the same persons, their heirs and assigns, that have such use and interest, to have and perceive any such annual rents out of any lands, tenements or hereditaments, that they and every of them, their heirs and assigns, be adjudged and deemed to be in the possession and seisin of the same rent, of and in such like estate, as they had in the title, interest or use of the said rent or profit, and as if a sufficient grant, or other lawful conveyance had been made and executed to them, by such as were or shall be seized to the use or intent of any such rent to be had, made or paid, according to the very trust and intent thereof; (2) and that all and every such person and persons as have, or hereafter shall have any title, use and interest in or to any such rent or profit, shall lawfully distrain for non-payment of the said rent, and in their own names make avowries, or by their bailiffs or servants make conisances and justifications, (3) and have all other suits, entries and remedies for such rents, as if the same rents had been actually and really granted to them, with sufficient clauses of distress, re-entry, or otherwise, according to such conditions, pains, or other things limited and appointed, upon the trust and intent for payment or surety of such rent.

A woman shall
not have both a
jointure and
dower of her
husband's
lands.

VI. And that whereas divers persons have purchased, or have estate made and conveyed of and in divers lands, tenements and hereditaments unto them and to their wives, and to the heirs of the husband, or to the husband and to the wife, and to the heirs of their two bodies begotten, or to the heirs of one of their bodies begotten, or to the husband and to the wife

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for term of their lives, or for term of life of the said wife; (2) or where any such estate or purchase of any lands, tenements, or hereditaments, hath been or hereafter shall be made to any husband and to his wife, in manner and form expressed, or to any other person or persons, and to their heirs and assigns, to the use and behoof of the said husband and wife, or to the use of the wife, as is before rehearsed, for the jointer of the wife; (3) that then in every such case, every woman married, having such jointer made or hereafter to be made, shall not claim, nor have title to have any dower of the residue of the lands, tenements or hereditaments, that at any time were her said husband's, by whom she hath any such jointer, nor shall demand nor claim her dower of and against them that have the lands and inheritances of her said husband; [4] but if she have no such jointer, then she shall be admitted and enabled to pursue, have and demand her dower by writ of dower, after the due course and order of the common laws of this realm; this Act, or any law or provision made to the contrary thereof notwithstanding.

VII. Provided alway, That if any such woman be lawful expelled or evicted from her said jointer, or from any part thereof, without any fraud or covin, by lawful entry, action, or by discontinuance of her husband, then every such woman shall be endowed of as much of the residue of her husband's tenements or hereditaments, whereof she was before dowable, as the same lands and tenements so evicted and expelled shall amount or extend unto.

VIII. Provided also, that this Act, nor any thing therein contained or expressed, extend or be in any wise hurtful or prejudicial to any woman or women heretofore being married, of, for or concerning such right, title, use, interest or possession, as they or any of them have, claim or pretend to have for her or their jointer or dower, of, in or to any manors, lands, tenements, or other hereditaments of any of their late husband's, being now dead or deceased; any thing contained in this Act to the contrary notwithstanding.

IX. Provided also, that if any wife have, or hereafter shall have any manors, lands, tenements or hereditaments unto her given and assured after marriage, for term of her life, or otherwise in jointer, except the same assurance be to her made by Act of Parliament, and the said wife after that fortune to over-live her said husband, in whose time the said jointer was made or assured unto her, that then the same wife so overliving shall and may at her liberty after the death of her said husband, refuse to have and take the lands and tenements so to her given, appointed or assured during the coverture, for term of her life, or otherwise in jointer, except the same assurance be to her made by Act of Parliament, as is aforesaid, [2] and thereupon to have, ask, demand and take her dower by writ of dower or otherwise, according to the common law, of and in all such lands, tenements and hereditaments as her husband was and stood seized of any state of inheritance at any time during the coverture; any thing contained in this Act to the contrary thereof notwithstanding.

X. Provided also, that this present Act, or any thing herein contained, extend nor be at any time hereafter interpreted, expounded or taken, to extinct, release, discharge or suspend any statute, recognizances or other bond, by the execution of any estate, of or in any lands, tenements or hereditaments, by the authority of this Act, to any person or persons, or bodies politick; any thing contained in this Act to the contrary thereof notwithstanding.

Co. pl. f. 171, 172.

Co. l. 4. f. 1, &c.
Dyer f. 61, 97, 228, 248, 266, 317, 340
Co. Inst. 36. b.A woman shall be endowed, whose jointure is recovered.
Moor 717.

Women heretofore married.

A jointure after marriage may be taken or refused by the wife.
Co. l. 3. f. 27.
Moor 721.

This statute shall extinguish no statute or recognizance, &c.

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Wills made before the statute, or shortly after, how they shall be taken.
Dyer f. 143.
See farther concerning wills,
29 Car. 2. c. 3.
4 Ann c. 16.

XI. And forasmuch as great ambiguities and doubts may arise of the validity and invalidity of wills heretofore made of any lands, tenements and hereditaments, to the great trouble of the King's subjects; be it enacted, that all manner true and just wills and testaments heretofore made by any person or persons deceased, or that shall decease before the 1st day of May, that shall be in the year of our Lord God, 1536, of any lands, tenements, or other hereditaments, shall be taken and accepted good and effectual in the law, after such fashion, manner and form as they were commonly taken and used at any time within 40 years next afore the making of this Act; any thing contained in this Act or in the Preamble thereof, or any opinion of the common law to the contrary thereof notwithstanding.

Cestuy que use may take all such advantages as his feoffees might have had.

XIV. All and singular person and persons, and bodies politic, which at any time on this side the said 1st day of May, which shall be in the year of our Lord God 1536, shall have any estate unto them executed of and in any lands, tenements or hereditaments, by the authority of this Act, shall and may have and take the same or like advantage, benefit, voucher, aid, prayer, remedy, commodity and profit by action, entry, condition or otherwise, to all intents, constructions and purposes, as the person or persons seized to their use of or in any such lands, tenements or hereditaments so executed, had, should, might or ought to have had at the time of the execution of the estate thereof, by the authority of this Act, against any other person or persons, of or for any waste, disseisin, trespass, condition broken, or any other offence, cause or thing concerning or touching the said lands or tenements so executed by the authority of this Act.

A. D. 1536.
28 H. 8. c. 15.

The commissioners authority.
1 Leon. 106,
270.
3 Bulstr. 28, 29

For Pirates.

II. Be it enacted, that such persons to whom such commission or commissions shall be directed, or four of them at the least, shall have full power and authority to enquire of such offences, and of every of them, by the oaths of 12 good and lawful inhabitants in the shire limited in their commission, in such like manner and form, as if such offences had been committed upon the land within the same shire; [2] and that every indictment found and presented before such commissioners, of any treasons, felonies, robberies, murders, manslaughters, or such other offences, being committed or done in or upon the seas or in or upon any other haven, river or creek, shall be good and effectual in the law; [3] and if any person or persons happen to be indicted for any such offence done or hereafter to be done upon the seas, or in any other place above limited, that then such order, process, judgment and execution shall be used, had, done and made, to and against every such person and persons so being indicted, as against traitors, felons and murderers, for treason, felony, robbery, murder, or other such offences done upon the land, as by the laws of this realm is accustomed; [4] and that the trial of such offence or offences, if it be denied by the offender or offenders, shall be had by 12 lawful men inhabited in the shire limited within such commission, which shall be directed as is aforesaid, and no challenge or challenges to be had for the hundred; [5] and such as shall be convict of any such offence or offences, by verdict, confession or process, by authority of any such commission, shall have and suffer such pains of death, losses of lands, goods and chattles, as if they had been attainted and convicted of any treasons, felonies, robberies, or other the said offences done upon the lands.

The punishment of offenders.
1 Salk. 85.
Co. Lit. 391. a.
Moor 756. pl.
1044.

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III. And be it enacted, that for treasons, robberies, felonies, murders and confederacies done upon the sea or seas, or in any place above rehearsed, the offenders shall not be admitted to have the benefit of his or their clergy, but be utterly excluded thereof and from the same, and also of the privilege of any sanctuary.

IV. Provided always, that this Act extend not to be prejudicial or hurtful to any person or persons for taking any victual, cables, ropes, anchors or sails, which any such person or persons (compelled by necessity) taketh of or in any ship which may conveniently spare the same, so the same person or persons pay out of hand for the same victual, cables, ropes, anchors or sails, money or money-worth, to the value of the thing so taken, or do deliver for the same a sufficient bill obligatory to be paid in form following, that is to say, if the taking of the same things be on this side the straits of Marroke, then to be paid within 4 months, and if it be beyond the said straits of Marroke, then to be paid within 12 months next ensuing the making of such bills, and that the makers of such bills well and truly pay the same debt at the day to be limited within the said bills.

Taking of things that may be spared upon necessity, and paying for them.

For Joint Tenants and Tenants in common.

A. D. 1539.

31 H. 8. c. 1.,

FORASMUCH as by the common laws of this realm divers of the King's subjects, being seized of manors, lands, tenements and hereditaments, as joint tenants or as tenants in common with other, of any estate of inheritance, in their own rights, or in the right of their wives, by purchase, descent, or otherwise, and every of them so being joint tenants, or tenants in common, have like right, title, interest and possession in the same manors, lands, tenements and hereditaments, for their parts or portions jointly or in common undividedly together with other; [2] and none of them by the law doth or may know their several parts or portions in the same, or that is his or theirs, by itself undivided, and cannot by the laws of this realm otherwise occupy, or take the profits of the same, or make any severance, division or partition thereof, without either of their mutual assents or consents; [3] by reason whereof divers and many of them, being so jointly and undividedly seized of the said manors, lands, tenements and hereditaments, oftentimes of their perverse, covetous and malicious minds and wills, against all right, justice, equity and good conscience, by strength and power, not only cut and fallen down all the woods and trees growing upon the same, but also have extirped, subverted, pulled down and destroyed all the houses, edifices and buildings, meadows, pastures, commons, and the whole commodities of the same, and have taken and converted them to their own uses and behoofs, to the open wrong and disherson, and against the minds and wills of other holding the same manors, lands, tenements and hereditaments jointly or in common with them, and they have been always without assured remedy for the same.

Godbolt 84. pl. 97. Several inconveniences ensuing by holding lands jointly, or in common, being undivided. Keil. w. 208. b. 211. b.

Vin. Abr. V. 14. 470 to 539. Wood P. 1. 187.

II. Be it therefore enacted, that all joint tenants and tenants in common, that now be, or hereafter shall be, of any estate or estates of inheritance in their own rights, or in the right of their wives, of any manors, lands, tenements or hereditaments within this realm of England, Wales, or the marches of the same, shall and may be co-acted and compelled, by virtue of this present Act, to make partition between them of all such manors, lands, tenements and hereditaments, as they now hold, or hereafter shall hold as joint tenants or tenants in common, by Writ *de participatione facienda*, in that case to be devised in the King our sovereign Lord's Court of

Joint tenants and tenants in common are compellable to make partition by writs. Extended to joint tenants, &c. for life or years by 32 H. 8. c. 32. Co. pl. f. 410.

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Raymond 213. Chancery, in like manner and form as coparceners by the common laws of
Dyer 128, 350. this realm have been and are compellable to do, and the same writ to be
b. pursued at the common law.
Bro. Partis. 38.

42.

Cro. El. 759. Cr. Car. 44. 2 Bulstr. 114.

Every of the
joint tenants
and tenants in
common shall
have aid of the
other.

Hob. 179.

6 Co. 12.

See farther

32 H. 8. c. 32.

III. Provided alway, and be it enacted, that every of the said joint tenants or tenants in common, and their heirs, after such partition made, shall and may have aid of the other or of their heirs, to the intent to dereign the warranty paramount, and to recover for the rate, as is used between coparceners after partition made by order of the common law; any in this Act contained to the contrary notwithstanding.*

*See A. A. 21st June, 1748, and A. A. 9th April, 1734.

A. D. 1540.
32 H. 8. c. 9.

The Bill of Bracery and buying of Titles.*

1 Roll. 447.
4 Mod. 84.
Savil 42.
23 Ed. 1, stat. 3.
c. 11. 33 Ed. 1,
stat. 3.
4 Ed. 3, c. 11.
20 Ed. 3, c. 4.
All statutes
made concern-
ing mainten-
ance, embrac'ry
and champerty,
shall be put in
execution.

THE King our Sovereign Lord, calling to his most blessed remembrance, that there is nothing within this realm that conserveth his loving subjects in more quietness, rest, peace and good concord, than the due and just ministration of his laws, and the true and indifferent trials of such titles and issues, as been to be tried according to the laws of this realm, (2) which his most Royal Majesty perceiveth to be greatly hindered and letted by maintenance, embracery, champerty, subornation of witnesses, sinister labour, buying of titles and pretended rights of persons not being in possession; (3) whereupon great perjury hath ensued, and much inquietness, oppression, vexation, troubles, wrongs and disinherittance hath followed among his most loving subjects, to the great displeasure of Almighty God, the discontentation of his Majesty, and to the great hinderance and let of justice within this realm: (4) For the avoiding of all which misdemeanors, and buying of titles and pretended rights, and to the intent that justice may be more fully and indifferently ministered, and the truth in causes of contention plainly tried between his subjects of this realm: (5) Be it enacted, That from henceforth all statutes heretofore made concerning maintenance, champerty and embracery, or any of them, now standing and being in their full strength and force, shall be put in due execution, according to the tenures and effects of the same statutes.

1 Leon. 166, 208,
2 Leon. 39, 48.
Co. pl. f. 253,
364. Moor 266,
pl. 414.
3 Leon. 233.
Hob. 115.
Godb. 450.
Goldsb. 101, pl. 6.
Heatley 164.
Plowd. 78.
Dyer 74.
4 Co. 26.
Bro. Mainten-
ance, 33.
Cro. El. 257.
Cro. Car. 43, 233.
1 Ld. Raymond,
537. None shall
buy any pre-
tensed right in
any land, unless
the seller hath

II. And be it further enacted, That no person nor persons, of what estate, degree or condition soever he or they be, shall from henceforth bargain, buy, or sell, or by any ways or means obtain, get or have any pretended rights or titles, or take promise, grant or covenant to have any right or title of any person or persons, in or to any manors, lands, tenements or hereditaments (except such person or persons, which so bargain, sell, give, grant, covenant or promise the same, their ancestors, or they by whom he or they claim the same, have been in possession of the same, or of the reversion or remainder thereof, or taken the rents or profits thereof, by the space of one whole year next before the said bargain, covenant, grant or promise made,) (2) upon pain that he that shall make any such bargain, sale, promise, covenant or grant, to forfeit the whole value of the lands, tenements or hereditaments, so bargained, sold, promised, covenanted or granted, contrary to the form of this Act; (3) and the buyer and taker thereof, knowing the same, to forfeit also the value of the said lands, tenements or hereditaments so by him bought or taken as is abovesaid;

* Embracery. 18 Ves. 120.

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(4) the one half of the said forfeitures to be to the King our Sovereign taken the profit Lord, and the other half to the party that will sue for the same in any of thereof one the King's courts of record, by action of debt, bill, plaint or information; 1 Anders. 76, year before in which action, bill, plaint or information, no essoin, protection, wager of 78, 201. law, nor injunction, shall be allowed.

III. And furthermore, That no manner of person or persons, of what estate, degree or condition soever he or they be, do hereafter unlawfully Unlawful maintain, or cause, or procure any unlawful maintenance, in any action, depending in demand, suit or complaint in any of the King's Courts of the Chancery, King's courts. the Star-Chamber, Whitehall, or elsewhere within any of the King's Goldsb. 113. dominions of England and Wales, or the marches of the same, where any pl. 1 Rast. pl. f. person or persons have or hereafter shall have authority, by virtue of the 430. 5 El. c. 9. King's commission, patent or writ, to hold plea of lands, or to examine, enlarged to 40l. hear or determine any title of lands, or any matter or witnesses concerning Bro. Maintenance, the title, right or interest of any lands, tenements or hereditaments; (2) ance, 1, 3, 5, 6, 7, and also that no person nor persons, of what estate, degree, or condition 8, 9, 13, 14, 16, 17, soever he or they be, do hereafter unlawfully retain, for maintenance of 18, 19, 20, 24, any suit or plea, any person or persons, or embrace any freeholders or 27, 28, 30, 32, jurors, or suborn any witness, by letters, rewards, promises, or any other 34, 39, 40, 41, sinister labour or means, for to maintain any matter or cause, or to the 42, 43, 48, 49, disturbance or hinderance of justice, or to the procurement or occasion of 50, 51, 53. any manner of perjury by false verdict or otherwise, in any manner of courts aforesaid; (3) upon pain to forfeit for every such offence x. li. the one moiety thereof unto the King our Sovereign Lord, and the other moiety to him that will sue for the same by action of debt, bill, plaint or information in any of the King's courts; in which action, no essoin, protection, wager of law, nor injunction, shall be allowed.

IV. Provided alway, That it shall be lawful to any person or persons being in lawful possession by taking of the yearly farm, rents or profits, of pretended title or for any manors, lands, tenements or hereditaments, to buy, obtain, get by him that is or have, by any reasonable ways or means, the pretended right or title of in possession, any other person or persons, hereafter to be made to, of, or in such manors, Dyer 53. lands tenements or hereditments, whereof he or they shall so be in lawful possession; any thing in this Act contained to the contrary notwithstanding.

V. And for the due execution of this present Act, be it further enacted, That the Justices of Assise of every circuit within this realm, and else- of the statutes where within the King's dominions, shall in every county within their of maintenance, circuits, two times in the year, that is to say, in the time of their sittings, champerty, &c. shall be made at for the taking of assises or delivery of the gaols, cause open proclamation the Assises. to be made, as well of this present Act, and of every thing therein contained, [2] as also of all other statutes heretofore made against unlawful maintenance, champerty, embracery, or unlawful retainers, to the intent that no manner of person or persons, hearing the same, should be ignorant or miscognisant of the dangers and penalties therein contained and specified.

VI. Provided alway, That this Act shall not extend to charge any Within what person or persons with any of the penalties mentioned in the said Act, for time the offender shall be any offence by him or them committed contrary to the said Act, except sued. the same person or persons so offending be sued thereof by action Rast. 119, 427. of debt, bill, plaint or information, in any of the King's courts, within Co. pl. f. 163. one year next after the same offence by him or them committed, as is Co. Lit. 269. a. aforesaid.

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32 H. 8, c. 32.

Joint Tenants for term of Life or Years.

32 H. 8, c. 1.
Joint tenants
and tenants in
common for
lives or years,
shall make
partition.

2 Bulstr. 114.
1 Leon. 162.
Joint tenants
for life or years
are compellable
to make
partition.
Bro. partition,
38, 41.
Co. Lit. 175, a.
187, a.
Dyer 73, pl. 7.
179, pl. 43.
Cro. Car 41.

FORASMUCH as in the Parliament begun at Westminster the 28 day of April, and there continued till the 28 day of June, the 31st year of the King's most noble and victorious reign that now is, it was amongst other things there enacted and established, That all joint tenants and tenants in common, that then were, or hereafter should be of any estate or estates of inheritance, in their own rights, or in the right of their wives, of any manors, lands, tenements or hereditaments within this realm of England, Wales, or Marches of the same, shall and may be coerced and compelled by virtue of the said Act, to make partition between them of all such manors, lands, tenements and hereditaments as they then held, or hereafter should hold as joint tenants or tenants in common, as more at large appeareth by the said statute: [2] And forasmuch as the said statute doth not extend to joint tenants and tenants in common for term of life or years, neither to joint tenants or tenants in common, where one or some of them have but a particular estate for term of life or years, and the other have estate or estates of inheritance of and in any manors, lands, tenements and hereditaments: [3] * Be it therefore enacted, That all joint tenants and tenants in common, and every of them, which now hold, or hereafter shall hold, jointly or in common, for term of life, year or years, or joint tenants or tenants in common, where one or some of them have or shall have estate or estates for term of life or years, with the other that have or shall have estate or estates of inheritance or freehold in any manors, lands, tenements or hereditaments, shall and may be compellable from henceforth, by writ of partition to be pursued out of the King's court of Chancery, upon his or their case or cases, to make severance and partition of all such manors, lands, tenements and hereditaments which they hold jointly or in common for term of life or lives, year or years, where one or some of them hold jointly or in common for term of life or years with other, or that have an estate or estates of inheritance of freehold.

Partition to be
prejudicial to
none but
parties.
Co. Ent. 412, b.

II. Provided alway, That no such partition or severance hereafter to be made by force of this Act, be, nor shall be prejudicial or hurtful to any person or persons, their heirs or successors, other than such which be parties unto the said partition, their executors or assigns.

* See A. A. 9 April, 1734, and A. A. 21 June, 1748.

32 H. 8, c. 23.

An Act that wrongful Disseisin is no Descent in Law.

13 Co. 6.
1 Brownl 131.
Vin. V. 9, 79.
Five years pos-
session in the
disseisor before
his death.
Dyer, f. 219.
Co. Lit. 233,
256, a.
Flowd. 47.
Hob. 243.
4 Ann, c. 16.

WHERE divers persons of their insatiable minds have heretofore by strength, and without title, entered into manors, lands, tenements and other hereditaments, and wrongfully disseised the rightful owners and possessors thereof, and so being seized by disseisin, have thereof died seized, by reason of which dying seized, the disseisee, or such other persons as before such descent might have lawfully entered into the said manors, lands and tenements, were and be thereby excluded of their entry into the said manors, lands and tenements, and put to their action for their remedy and recovery therein, to their great costs and charges; [2] for reformation whereof, be it enacted, That the dying seized hereafter of any such disseisor, of or in any manors, lands, tenements, or other hereditaments, having no right or title therein, shall not be taken or deemed from henceforth any such descent in the law, for to toll or take away the entry

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of any such person or persons, or their heirs, which at the time of the same descent had good and lawful title of entry into the said manors, lands, tenements or hereditaments, except that such disseisor hath had the peaceable possession of such manors, lands, tenements or hereditaments whereof he shall so die seised; by the space of five years next after the disseisin therein by him committed, without entry or continual claim by or of such person or persons as have lawful title thereunto.

For Marriages to stand notwithstanding Pre-contracts.

32 H. 8, c. 38.

WHEREAS heretofore the usurped power of the Bishop of Rome hath always intangled and troubled the meer jurisdiction and regal power of this realm of England, and also unquieted much the subjects of the same, by his usurped power in them, as by making that unlawful which by God's Word is lawful, both in marriages and other things, as hereafter shall appear more at length, and till now of late in our Sovereign Lord's time, which is otherwise by learning taught than his predecessors in times past of long time have been, hath so continued the same, whereof yet some sparks be left, which hereafter might kindle a greater fire, and so remaining, his power not to seem utterly extinct:

II. Therefore it is thought most convenient, That two things specially for this time, be with diligence provided for, whereby many inconveniences have ensued, and many mo else mought ensue and follow; [2] as where heretofore divers and many persons after long continuance together in matrimony without allegation of either of the parties, or any other at their marriage, why the same matrimony should not be good, just and lawful, and after the same matrimony solemnized and consummate by carnal knowledge, and also sometimes fruit of children ensued of the same marriage, have nevertheless, by an unjust law of the Bishop of Rome, which is, That upon pretence of a former contract made, and not consummate by carnal copulation (for proof whereof two witnesses by that law were only required) been divorced and separate, contrary to God's law, and so the true matrimony, both solemnized in the face of the church, and consummate with bodily knowledge, and confirmed also with the fruit of children had between them, clearly frustrate and dissolved: [3] Further also, by reason of other prohibitions than God's law admitteth, for their lucre by that court invented, the dispensation whereof they always reserved to themselves, as in kindred or affinity between cousin-germans, and so to 4th and 4th degree, carnal knowledge of any of the same kin, or affinity before in such outward degrees, which else were lawful, and be not prohibited by God's law; [4] and all because they would get money by it, and keep a reputation to their usurped jurisdiction, whereby not only much discord between lawful married persons hath (contrary to God's ordinance) arisen, much debate and suit at the law, with wrongful vexation, and great damage of the innocent party hath been procured, and many just marriages brought in doubt and danger of undoing, and also many times undone, and lawful heirs disherited, whereof there had never else, but for his vain glorious usurpation, been moved any such question, since freedom in them was given us by God's law, which ought to be most sure and certain; [5] but that notwithstanding, marriages have been brought into such an uncertainty thereby, that no marriage could be so surely knit and bounden, but it should lie in either of the parties power and arbiter, casting away the fear of God, by means and compasses to

What marriages are lawful, and what not. 2 Inst. 683.

The enormity of avoiding marriages by pre-contracts. Vin. V. 15, 262. 1 Bl. Com. 439.

The inconveniences of dispensations to marry.

Cro. El. 228. Co. Lit. 235. h. All persons be lawful to contract marriage that be not

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prohibited by
God's law.
Vaugh. 206.

That marriage
is indissoluble
which is con-
tracted and
solemnized in
the face of the
church, and
consummate
with bodily
knowledge or
fruit of child,
notwithstand-
ing any pre-
contract. See
farther 1 Jac. 1.
c. 11.

prove a pre-contract, a kindred and alliance, or a carnal knowledge, to defeat the same, and so under the pretence of these allegations afore rehearsed, to live all the days of their lives in detestable adultery, to the utter destruction of their own souls, and the provocation of the terrible wrath of God upon the places where such abominations were used and suffered: Be it therefore enacted, That from the 1st day of the month of July next coming, in the year of our Lord God, 1540, all and every such marriages as within this Church of England shall be contracted between lawful persons (as by this Act we declare all persons to be lawful, that be not prohibited by God's law to marry) [7] such marriages being contract and solemnized in the face of the church, and consummate with bodily knowledge, or fruit of children or child being had therein between the parties so married, shall be by authority of this present parliament aforesaid deemed, judged and taken to be lawful, good, just and indissoluble, notwithstanding any pre-contract or pre-contracts of matrimony not consummate with bodily knowledge, which either of the parties so married or both shall have made with any other person or persons before the time of contracting that marriage which is solemnized and consummate, or whereof such fruit is ensued, or may ensue, as afore, and notwithstanding any dispensation, prescription, law or other thing granted or confirmed by Act or otherwise; [8] and that no reservation or prohibition, God's law except, shall trouble or impeach any marriage without the Levitical degrees; [9] and that no person, of what estate, degree or condition soever he or she be, shall, after the first day of the said month of July aforesaid, be admitted in any of the spiritual courts within this the King's realm, or any his Graces other lands and dominions, to any process, plea or allegation, contrary to this foresaid Act.

A. D. 1541.
33 H. 8, c. 1.

A Bill against them that counterfeit Letters or privy Tokens to receive Money or Goods in other Mens Names.

4 Bl. Com. 159.
20 Geo. 2, c. 24.

FORASMUCH as many light and evil-disposed persons, not minding to get their livings by truth, according to the laws of this realm, but compassing and devising daily how they may unlawfully obtain and get into their hands and possession goods, cattels and jewels of other persons, for the maintenance of their unthrifty living, and also knowing that if they come to any of the said goods, cattels and jewels by stealth, that then they, being thereof lawfully convicted according to the laws of this realm, shall die therefore, have now of late falsely and deceitfully contrived, devised and imagined privy tokens, and counterfeit letters in other men's names, unto divers persons their special friends and acquaintances, for the obtaining of money, goods, cattels and jewels of the same persons, their friends and acquaintances, by colour whereof the said light and evil disposed persons have deceitfully and unlawfully obtained and gotten great substance of money, goods, cattels and jewels into their hands and possession, contrary to right and conscience.

1 Bulstr. 140.
Cro. Car. 564.

II. For reformation whereof, be it enacted, That if any person or persons, of what estate or degree soever he or they be, at any time after the 1st day of April next coming, falsely and deceitfully obtain or get into his or their hands or possession, any money, goods, cattels, jewels, or other things of any other person or persons, by colour and means of any such false token or counterfeit letter made in any other man's name, as is aforesaid, that then every person and persons so offending, and being thereof

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lawfully convict, by witnesses taken before the lord chancellor of England for the time being, or by examination of witnesses, or confession taken in the Star-chamber at Westminster before the King's most honourable Council, or before the justices of assise in their circuits for the time being, or before the justices of peace within any part of the King's dominions in their general sessions, or by action in any of the King's courts of record, [2] shall have and suffer such correction and punishment, by imprisonment of his body, setting upon the pillory, or otherwise by any corporal pain (except pains of death) as shall be unto him or them limited, adjudged or appointed by the person or persons before whom he shall be so convict of the said offences, or any of them.

III. And be it further enacted, That as well the justices of assise for the time being, as also two justices of peace in every county, whereof the one, to be of the quorum, shall have full power and authority to call and convent, by process or otherwise, to the assises or general sessions, any person or persons being suspected of any of the offences aforesaid, and to commit him or them to ward, or to let him or them to bail, till the next assises or general sessions, there to be examined, and further to be ordered by their discretions, as is abovesaid. The Justices authority touching the said offenders.

IV. Provided always, That justices of the peace within every city, borough, town and franchise within this realm, or other the King's dominions, shall have like jurisdiction, power and authority, at their general sessions and otherwise, to do and execute all and every thing and things in all points, as other justices of the assises in their circuits, or justices of the peace in the counties, by virtue of this Act, be limited and appointed to do and execute, for the punishment and correction of like offenders, as by this foresaid Act is specified and declared: [2] Saving to the party The authority of Justices of Peace in cities, &c. The remedy of the party grievd by such deceit, such remedy by way of action or otherwise, of and grievd. for the same money, goods, catels, jewels or other things so obtained, as he might have had if this Act had never been had ne made: any thing in the same contained to the contrary in any wise notwithstanding.

V. The aforesaid justices of assise or justices of peace have by force of this Act within their jurisdiction and authorities.

*The Bill for Burning of Frames.*A. D. 1545.
37 H. 8, c. 6.

WHERE divers and sundry malicious and envious persons, being men of evil and perverse dispositions, and seduced by the instigation of the devil, and unminding the hurt, undoing and impoverishment of divers of the King's true and faithful subjects, as enemies to the common wealth of this realm, and as no true or obedient subjects unto the King's Majesty, of their malicious and wicked minds, have of late invented and practised a new damnable kind of vice, displeasure, and damifying of the King's true subjects, and the common wealth of this realm, as in secret burning of frames of timber prepared and made by the owners thereof, ready to be set up and edified for houses; cutting out of heads and dams of pools, motes, stews, and several waters; cutting off conduit-heads or conduit-pipes; burning of wains and carts loaden with coals or other goods; burning of heaps of wood, cut, felled and prepared for making of coals; cutting out of beasts tongues; cutting off the ears of the King's subjects; barking of apple-trees, pear-trees, and other fruit trees; and divers other like kinds of miserable offences; to the great displeasure of Almighty God, and of Several new and wicked devices tending to the damifying of others.

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the King's Majesty, and to the most evil and pernicious example that hath been seen in this realm :

II. For remedy whereof, be it enacted, That if any person or persons, at any time after the 1st day of May next ensuing, maliciously, unlawfully, willingly and secretly burn, or cause to be burned, cut, or cause to be cut or destroyed, any frame or frames of timber of any other person or persons, made and prepared, or hereafter to be made or prepared, for or towards the making of any house or houses, so that the same shall not be able for the purpose for the which it was prepared ; that then every such act and acts so to be committed, perpetrated and done by any person or persons, shall be deemed and adjudged felony, and the offender or offenders therein, being lawfully convicted or attainted, shall have and suffer pains of death, [2] and shall lose and forfeit goods and chattles for ever, and the profits of their lands, tenements and hereditaments for term of his or their lives.

This felony doth not make the wife lose her dower, nor work corruption of blood in the heir. The offender's heir shall satisfy the party grieved.

III. Provided always, That such attainder shall be no avoiding of any woman's dower, ne corruption of blood against the heir or heirs of such offender or offenders, [2] but be it enacted, That the wife and wives of such offender or offenders shall have their dowers ; and that such heir and heirs shall, after the decease of the said offender, have and enjoy the said lands, tenements and hereditaments of such offender and offenders, in like manner and form as they should have had, if this Act, or any such attainder, had never been had ne made. [3] And that the heir or heirs having the said lands, tenements or hereditaments of any estate of inheritance, shall yield unto the party grieved for such offence or offences, his damages of the profits of the said lands, tenements or hereditaments of such offender or offenders, whereunto he shall be inheritable, by action of debt to be taken in the Common Bench at Westminster; in which action, no wager of law, essoin, ne protection, shall be allowed.

The penalty for cutting the head of any several waters. Burning a cart laden. Burning a heap of wood prepared for coals. Cutting out the tongue of a beast. Cutting off the ears of another. Barking of fruit trees.

IV. And if any person or persons, after the said first day of May, maliciously, wilfully and unlawfully cut or cause to be cut out the head or heads, dam or dams of any ponds, pools, motes, stews, or other several waters, or the head or heads, pipe or pipes of any conduit or conduits of any other person or persons; (2) or maliciously, willingly and unlawfully, after the said 1st day of May, burn or cause to be burned any wain or wains, cart or carts, laden or to be laden with coals or any other goods or merchandises of any other person or persons; (3) or maliciously, willingly and unlawfully, after the said 1st day of May, do burn or cause to be burned any heap or heaps of wood of any other person or persons, prepared, cut and felled, or to be prepared, cut or felled, for making of coals, billets or talwood; (4) or maliciously, unlawfully and willingly, after the said 1st day of May, cut out or cause to be cut out the tongue or tongues of any tame beast or beasts of any other person or persons, the said beast then being in life; (5) or maliciously, willingly, or unlawfully, after the said 1st day of May, cut or cause to be cut off the ear or ears of any of the King's subjects, otherwise than by authority of the law, chance-medley, sudden affray or adventure; (6) or after the said day, maliciously, willingly or unlawfully bark any apple-trees, pear-trees, or other fruit trees, of any other person or persons; (7) that then every such offender and offenders shall not only loose and forfeit unto the party grieved treble damages for such offence or offences, the same to be recovered by action of trespass to be taken at the common law, but also shall loose and forfeit

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to the King's Majesty, and his heirs, for every such offence, x. l. sterling in name of a fine.

An Act for the Repeal of certain Statutes concerning Treasons and Felonies.

XIII. Be it enacted, That all wilful killing by poisoning of any person or persons, that at any time hereafter shall be done, perpetrated or committed, shall be adjudged, taken and deemed wilful murder of malice prepensed: (2) and that the offenders therein, their aiders, abettors, procurers and counsellors, shall suffer death, and forfeit in every behalf as in other cases of wilful murder of malice prepensed.*

A. D. 1547.
1 Ed. 6, c. 13.
Wilful killing
by poisoning
shall be adjudged
murder.
1 Bulstr. 87.
Plowd. 473.
4 Coke, 47.
See farther
concerning
murder, 1 Jac. 1,
c. 8. 21 Jac. 1,
c. 27.

* The rest of this Act not made of force.

An Act for the taking away of the Benefit of the Clergy from certain Offenders.

A. D. 1553.
5 & 6 Ed. 6, c. 9.

* WHERE at the Parliament holden at Westminster by prorogation the 23d year of the reign of the late King, of famous memory, King Henry the Eighth, it was among other things then and there enacted, established and ordained by authority of the same Parliament, That no person or persons, which after that time should happen to be found guilty, after the laws of this realm, for any manner petty treason, or for any wilful murder of malice prepensed, or for robbing of any churches, chapels or other holy places, or for robbing of any person or persons in their dwelling-houses or dwelling-places, the owner or dweller in the same house, his wife, his children or servants then being within, and put in fear or dread by the same, or for robbing of any person or persons in or near about the highways, or for wilful burning of any dwelling-houses or barns wherein any grain or corn should happen to be, nor any person or persons being found guilty of any abetment, procurement, maintaining or concealing of any or to any such petty treason, murders or felonies, should from thenceforth be admitted to the benefit of his or their clergy, but utterly to be excluded thereof, and suffer death in such manner and form as they should have done for any the causes or offences abovesaid, if they were no clerks; such as be within holy orders, that is to say, of the orders of subdeacon, or above, all only excepted, as by the same Act among other things more plainly appeareth; (2) which Act was made to endure until the last day of the next parliament; and after that, at the session of the parliament holden at Westminster by prorogation in the 32 year of the reign of the said late King, the same Act with other Acts was made to continue for ever.

No person robbing any house
&c. shall have
the benefit of
his clergy.
23 H. 8, c. 1.
3 Inst. 65, 115.
Kelyng 67, 68,
69.

II. Sithen the making of which statute it hath been doubted, that if such robberies and felonies have been committed and done in dwelling-houses and dwelling-places, the owner or dweller in the same house, his wife, his children or servants, being then put in fear or dread by the same, shall not lose the benefit of their clergy, if the offenders therein be found guilty by the laws of this realm, unless the same robbery or felony be committed and done in the very chamber, house or place where the owner or dweller in the same house, his wife, children or servants shall happen to be or lie at the time of such robbery and felony committed and done, and put in fear and dread, although the owner and dweller in such house and houses, his

Three several
doubts and
questions
moved upon
the Stat. of 23
H. 8, c. 1.

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wife, his children or servants, at the time of such robbery and felony committed and done, were or lay in other places within the precinct of the same dwelling-houses, nigh unto the house or place where such robbery and felony shall happen to be done: (2) Or if it happen that the owner or dweller within the same house where such robbery and felony shall happen to be done, his wife, children or servants to be asleep at the time of such robbery and felony committed and done, although the same robbery were done in the chamber or place where the owner or dweller in the same house, his wife, children or servants, then lay, the offenders being found guilty thereof according to the laws of the land, should not lose the benefit and advantage of their clergy.

Poph. 84.
Br. Coron. 160.

III. And where also it hath been in question and doubted, that if such robberies and felonies happen to be committed and done in any booth or booths, tent or tents, in any fair or market, the owner of the same, his wife, children or servants, happening to be within the same at the time of the committing of such felonies, and put in fear and dread, the offenders therein being found guilty after the laws of this realm, should not lose the benefit of their clergy.

Burglary, the
owner, &c. be-
ing in another
part of the
house or asleep.
4 Co 40.

IV. For the true declaration and explanation of the same doubts or questions before recited, be it enacted, That if it happen any person or persons to be found guilty according to the laws of this realm, for robbing of any person or persons after the 1st day of May next ensuing, in any part or parcel of their dwelling-houses or dwelling-places, the owner or dweller in the same house, or his wife, his children or servants, being then within the same house or place where it shall happen the same robbery and felony to be committed and done, or in any other place within the precinct of the same house or dwelling-place; that such offenders shall in no wise be admitted to their clergy, whether the owner or dweller in the same house, his wife or children then and there being, shall be waking or sleeping.

Burglary in a
tent or booth in
a fair or market.
23 H. 8. c. 1.
For farther
provisions
concerning
burglary, see 3
W. & M. c. 9.
& A. A. Aug.
23, 1769.

V. And that no person or persons which after the said 1st day of May shall happen to be found guilty, after the laws of this realm, of and for robbing any person or persons in any booth or tent, in any fair or market, the owner, his wife, his children or servants, or servant, then being within the same booth or tent, shall not from henceforth be admitted to the benefit of his or their clergy, but utterly be excluded thereof, and suffer death in such manner and form as is before mentioned in the said Act made in the said xxij. year of the reign of the same late King, for robberies and felonies committed and done in dwelling houses and dwelling-places, the owner or dweller in the same, his wife, children or servants, then being within the same, and put in fear and dread, without having any respect or consideration whether the owner or dweller in such booths and tents, his wife, children or servants, being in the same booths or tents at the time of such robberies and felonies committed, shall be sleeping or waking.

5 & 6 Ed. 6. c.
10.

An Act for the avoiding of Clergy from divers persons.

Unnecessary, as the whole Statute, 1 Ed. 6. c. 12, is not of force here.

Such as rob in
one shire and
fly into another
shall not have
their clergy.
25 H. 8. c. 3.
23 H. 8. c. 1.

WHERE in the parliament holden at Westminster upon prorogation the 15th day of January in the 25th year of the reign of our late sovereign Lord King Henry the eighth, it is recited, that at the parliament holden at Westminster in the 23d year of the reign of the said late King, amongst other things it was ordained, established and enacted, that no person or

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persons, which after that time should happen to be found guilty, after the laws of this land, of any manner of petty treason, or for any wilful murder of malice prepensed, or for robbing of any churches, chapels, or other holy places, or for robbing of any person or persons in their dwelling houses or dwelling place, the owner or dweller in the same house, his wife, his children or servants then being within, and put in fear and dread by the same, or for robbing of any person or persons in or near about the highways, or for wilful burning of any dwelling houses or barns wherein any grains of corn should happen to be, nor any person or persons being found guilty of any abetment, procurement, helping, maintaining or concealing of or to any such petty treason, murders or felonies, should from thenceforth be admitted to the benefit of his or their clergy, but should utterly be excluded thereof, and suffer death in such manner and form as they should have done for any the causes or offences abovesaid, if they were no clerks; [2] which Act extendeth but only where such offender was convicted in such county or place where any such offence was so committed and done, and not where he or they did such offence in one county, and were taken with the mainer in another county; [3] wherefore it was considered, that forasmuch as divers and many felons and robbers that commit and do divers and many great heinous robberies and burglaries in one shire, and convey the spoil and robbery into any other shire, and there be taken, indicted and arraigned of felony, of the felonious stealing of the same goods in the same other shire than where the same robberies or burglaries were done and committed, and not of the same robbery nor burglary, for that it was not done or committed in the same shire, where they be so indicted and arraigned, and that by reason thereof such felons, robbers and burglarors had and enjoyed the privilege and advantage of their clergy;

II. For redress whereof, it was enacted in the said Parliament holden in the said xxv. year of the said late King, that if any person or persons² after that time, after such robbery or burglary by him or them done in any one county, should be indicted of felony for stealing of any goods or chattles in any other county within this realm, and thereupon arraigned and found guilty, or stand mute of malice, or challenge peremptorily above the number of xx. persons, or would not upon his or their said arraignment directly answer to the same felony, that then the same person and persons so arraigned and found guilty, or standing mute of malice, or challenging peremptorily above the number of 20 persons, or that would not directly answer to the law, should lose and be put out from the benefit of his or their clergy, in like manner and form as they should have been if they had been indicted, arraigned and found guilty in the same county where such robbery or burglary as is aforesaid, was done or committed, if it should appear to the justices before whom any such felons or robbers should be arraigned, by evidence given before them, or by examination, that the same felons and burglarors should have been put from their clergy, in case they had been indicted, arraigned and found guilty, in the same county where the same robberies or burglaries were committed or done, as in the same statute made in the said xxv. year, among other things, more plainly appeareth.

An Act touching Bailment of Persons.

A. D. 1554.

WHERE in the Parliament holden at Westminster in the 3d year of the reign of King Henry the 7th, it was among other things ordained and
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1 & 2 P. & M.
c. 13.

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In what manner justices of peace may bail persons arrested of felony or suspicion thereof, &c.
3 H. 7. c. 3.
1 Roll 263.

enacted, that no prisoner arrested for felony, should be letten to bail or mainprise by any one justice of peace, but by the whole justices, or at least by two of them, whereof one to be of the quorum; [2] since the making of which estatute, one justice of peace in the name of himself and one other of the justices his companion, not making the said justice party nor privy unto the case wherefore the prisoner should be bailed, hath oftentimes by sinister labour and means set at large the greatest and notablest offenders, such as be not replevisable by the laws of this realm; [3] and yet the rather to hide their affections in that behalf, have signed the cause of their apprehension to be but only for suspicion of felony, whereby the said offenders have escaped unpunished, and do daily, to the high displeasure of Almighty God, the great peril of the King and Queens true subjects, and encouragement of all thieves, and evil-doers.

None shall be let to bail which he forbidden to be bailed by the stat. of 3 Ed. 1. c. 15.

II. For reformation whereof, be it enacted, that from and after the first day of April next coming, no justice or justices of peace shall let to bail or mainprise any such person or persons, which for any offence or offences by them or any of them committed, be declared not to be replevised or bailed, or be forbidden to be replevised or bailed by the statute of Westminster primer, made in the Parliament holden in the 3d year of the reign of King Edward the first.

3 Bulstr. 113.

III. And furthermore, that any person or persons arrested for manslaughter or felony, or suspicion of manslaughter or felony, being bailable by the law, shall not after the said first day of April, be let to bail or mainprise by any justices of peace, if it be not in open sessions, except it be by two justices of peace at the least, whereof one to be of the quorum, and the same justices to be present together at the time of the said bailment or mainprise; [2] which bailment or mainprise they shall certify in writing subscribed or signed with their own hands, at the next general gaol-delivery to be holden within the county where the said person or persons shall be arrested or suspected.

The justices duty in bailment of a prisoner extended to such as shall be committed for manslaughter, &c.
2 & 3 Ph. & M. c. 10. in examination of him and others, and certifying thereof. 2 and 3 Ph. and M. c. 10.
The coroner's duty upon an inquisition found before him.

IV. And that the said justices, or one of them being of the quorum, when any such prisoner is brought before them for any manslaughter or felony, before any bailment or mainprise, shall take the examination of the said prisoner, and information of them that bring him, of the fact and circumstances thereof, and the same, or as much thereof as shall be material to prove the felony, shall put in writing, before they make the same bailment; [2] which said examination, together with the said bailment, the said justices shall certify at the next general gaol-delivery, to be holden within the limits of their commission.

V. And that every coroner, upon any inquisition before him found, whereby any person or persons shall be indicted for murder or manslaughter, or as accessory or accessories to the same before the murder or manslaughter committed, shall put in writing the effect of the evidence given to the jury before him, being material; [2] and as well the said justices as the said coroner, shall have authority by this Act to bind all such by recognizance or obligation, as do declare any thing material to prove the said murder or manslaughter, offences or felonies, or to be accessory or accessories to the same as is aforesaid, to appear at the next general gaol-delivery to be holden within the county, city or town corporate, where the trial thereof shall be, then and there to give evidence against the party so indicted at the time of his trial; [3] and shall certify as well the same evidence as such bond or bonds in writing, as he shall take, together with the inquisition or indictment before him taken and found, at or before the

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time of his said trial thereof to be had or made; [4] and likewise the said justices shall certify all and every such bond taken before them, in like manner as before is said of bailments and examinations. [5] And in case any justice of peace or quorum, or coroner, shall after the said 1st day of April offend in any thing contrary to the true intent and meaning of this present Act, that then the justices of gaol-delivery of the shire, city, town or place, where such offence shall happen to be committed, upon due proof thereof by examination before them, shall for every such offence set such fine on every of the same justices of peace and coroner, as the same justices of gaol-delivery shall think meet, and shall estreat the same, as other fines and amerciaments assessed before justices of gaol-delivery ought to be.

VII. And be it also enacted by the authority aforesaid, that no writs of *Habeas Corpus* or *Certiorari* shall be hereafter granted to remove any prisoner out of any gaol, or to remove any recognizance, except the same writs be signed with the proper hands of the chief justice, or in his absence one of the justices of the court out of which the same writs shall be awarded or made; [2] upon pain that he that writeth any such writs, not being signed as is aforesaid, to forfeit to our said sovereign Lord the King and the Queen, for every such writ and writs, 5 pounds.

An Act to take Examination of Prisoners suspected of any Manslaughter or Felony. A. D. 1555.
2 & 3 P. & M.
c. 10.

WHERE in the last Parliament holden at Westminster, amongst other things it was enacted, that such justices of the peace as have authority to bail any prisoners brought before them for any manslaughter or felony, before any bailment or mainprise, should take the examination of the said prisoner, and information of them that bring him, of the fact and circumstances thereof, and the same, or as much thereof as shall be material to prove the felony, shall put in writing before they make the same bailment; [2] which said examination, together with the said bailment, the said justices shall certify at the next general gaol-delivery, to be holden within the limits of their commission, as by the same Act more plainly is contained, and may appear.

II. And forasmuch as the said Act doth not extend to such prisoners as shall be brought before any justices of peace for manslaughter or felony, and by such justice shall be committed to ward for the suspicion of such manslaughter or felony, and not bailed, in which case the examination of such prisoner, and of such as shall bring him, is as necessary, or rather more than where such prisoner shall be let to bail or mainprise; [2] be it therefore enacted, that from henceforth such justice or justices before whom any person shall be brought for manslaughter or felony, or for suspicion thereof, before he or they shall commit or send such prisoner to ward, shall take the examination of such prisoner, and information of those that bring him, of the fact and circumstance thereof, and the same, or as much thereof as shall be material to prove the felony, shall put in writing within two days after the said examination; [3] and the same shall certify in such manner and form, and at such time, as they should and ought to do, if such prisoner so committed or sent to ward had been bailed or let to the mainprise, upon such pain as in the said former Act is limited and appointed for not taking, or not certifying, such examinations as in the said former Act is expressed. [4] And the said justices shall have authority by this

The penalty of any justice of peace or coroner omitting his duty.

Removing of a prisoner or recognizance. See 31 Car. 2. c. 2. §. 7. for bailing persons committed for treason or felony, and not indicted the next term.

Justices of Peace shall examine persons arrested of felony, &c. and shall bind their accusers to give evidence against them. 1 & 2 Ph. & M. c. 13.

A Justice of Peace shall examine him that is suspected of felony, before he be committed to prison.

Binding of the accusers to give evidence against the prisoner.

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See 31 Car. 2. c. 2. §. 7. for bailing persons committed for treason or felony, and not indicted the next term.

Act, to bind all such by recognisance or obligation, as do declare any thing material to prove the said manslaughter or felony against such prisoner as shall be so committed to ward, to appear at the next general gaol-delivery to be holden within the county, city or town corporate where the trial of the said manslaughter or felony shall be, then and there to give evidence against the party; [5] and that the said justices shall certify the said bonds taken before them, in like manner as they should and ought to certify the bonds mentioned in the said former Act, upon pain as in the said former Act is mentioned, for not certifying such bonds as by the said former Act is limited and appointed to be certified.

A. D. 1557. 4 & 5 P. & M. c. 4.

An Act that Accessories in Murder and divers Felonies shall not have the benefit of Clergy.

Accessories in petty treason, felony, murder, shall not have their clergy. Savil. 46. Dyer f. 183. 186. 11 Co 36.

FOR the due punishment of such as command, counsel or hire any person or persons to commit, perpetrate or do any petty treason, wilful murder, or any of the offences in this present Act mentioned; [2] be it enacted, that all and every person and persons, that after the 1st day of March next coming shall maliciously command, hire or counsel any person or persons to commit or do any petty treason, wilful murder, or to do any robbery in any dwelling-house or houses, or to commit or do any robbery in or near any highway in the realm of England, or in any other the Queen's dominions, or to commit or do any robbery in any place within the marches of England against Scotland, or wilfully to burn any dwelling-house or any part thereof, or any barn then having corn or grain in the same; that then every such offender or offenders, and every of them, being outlawed thereof, or being thereof arraigned and found guilty by the order of the law, or being otherwise lawfully attainted or convicted of the same offence; or being arraigned thereof do stand mute of malice or froward mind, or do challenge peremptory above the number of 20 persons, or will not answer directly to such offence, shall not have the benefit of his or their clergy.

4 & 5 P. & M. c. 8.

An Act for the Punishment of such as shall take away Maidens that be Inheritors, being within the age of 16 years, or that marry them without consent of their parents.

Punishment of such as take away maidens, &c. within 16 years of age, &c. 3 H. 7. c. 2.

WHERE maidens and women, children of noblemen, gentlemen and others, as well such as be heirs apparent to their ancestors, as others, having left unto them by their father, or other ancestor and friends, lands, tenements and hereditaments, or other great substances in goods and chattles moveable, for and to the intent to advance them in marriage, somewhat like according to their degrees and as might be most for their surety and comfort, as well for themselves as of all other their friends and kinsfolks, be oftentimes unawares to their said friends and kinsfolks, by flattery, trifling gifts and fair promises, of many unthrift and light personages, and thereto by the intreaty of persons of lewd demeanour, and others that for rewards buy and sell the said maidens and children, secretly allured and won to contract matrimony with the said unthrift and light personages, and thereupon either with sleight or force oftentimes be taken and conveyed away from their said parents, friends or kinsfolks, to the high displeasure of Almighty God, the disparagement of

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the said children, and the extream continual heaviness of all their friends; which ungodly dealing, for lack of wholesome laws to the redress thereof, remaineth a great, familiar and common mischief in this our common-wealth.

II. For remedy whereof, that it shall not be lawful to any person or persons to take or convey away, or cause to be taken or conveyed away, ^{3 Mod. 168, 169.} any maid or woman child unmarried, being under the age of 16 years, ^{4 Mod. 145.} out of or from the possession, custody or governance, and against the will of the father of such maid or woman child, or of such person or persons to whom the father of such maid or woman child, by his last will and testament, or by any other Act in his life-time, hath or shall appoint, assign, bequeath, give or grant the order, keeping, education or governance of such maid or woman child, except such taking and conveying away as shall be had, made or done, by or for such person or persons, as without fraud or covin be or then shall be the master or mistress of such maid or woman child, or the guardian in socage, or guardian in chivalry, of or to such maid or woman child.

III. And if any person or persons above the age of xiv. years shall from and after the 1st day of April next coming, unlawfully take or convey, or cause to be taken or conveyed, any maid or woman child unmarried, being within the age of xvi. years, out of or from the possession and against the will of the father or mother of such child, or out of or from the possession and against the will of such person or persons as then shall happen to have by any lawful ways or means, the order, keeping, education or governance of any such maiden or woman child, that then every such person and persons so offending, being thereof lawfully attainted or convicted by the order and due course of the laws of this realm (other than such of whom such person taken away shall hold any lands or tenements by Knights service) shall have and suffer imprisonment of his or their bodies, by the space of 2 whole years, without bail or mainprise, or else shall pay such fine for his or their said offence, as shall be assessed by the council of the Queen's highness, her heirs or successors, in the Star Chamber at Westminster. ^{The penalty for taking a maid under 16 years of age. 2 Mod. 128.}

IV. And if any person or persons, after the said day, shall so take away, or cause to be taken away as is aforesaid, and deflower any such maid or woman child as is aforesaid, or shall against the will, or unknowing of or to the father of any such maid or woman child, if the father be in life, or against the will or unknowing of the mother of any such maid or woman child, (having the custody or governance of such child, if the father be dead) by secret letters, messages, or otherwise, contract matrimony with any such maiden or woman child, except such contracts of matrimony as shall be made by the consent of such person or persons, as by the title of wardship shall then have or be intitled to have the marriage of such maid or woman child, that then every such person or persons so offending, being thereof lawfully convicted, as is aforesaid, shall suffer imprisonment of his or their bodies, by the space of 5 years, without bail or mainprise, or else shall pay such fine for his or their said offence, as shall be assessed by the said council in the said Star Chamber; (2) the one moiety of all which forfeitures and fines shall be to the King and Queen's majesties, her heirs and successors, the other moiety to the parties grieved. ^{The penalty for taking away, deflowering or contracting matrimony with a woman under 16 years of age. 2 Bay's Rep. 418.}

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Who may hear
and determine
the offences
aforesaid.
Cro Car. 465.

V. The King and Queen's highness honourable council of the Star Chamber, by bill of complaint or information, and justices of assise by inquisition or indictment, shall have authority by virtue of this Act to hear and determine the said offences; [2] upon every which indictment and inquisitions, such process shall be awarded and lie, as upon an indictment of trespass at the common law.

The forfeiture
of a woman
consenting to
an unlawful
contract.
3 Mod 84.

VI. And if any woman child or maiden, being above the age of 12 years, and under the age of 16 years, do at any time consent or agree to such person that so shall make any contract of matrimony, contrary to the form and effect of this statute, that then the next of the kin of the same woman child or maid, to whom the inheritance should descend, return or come, after the decease of the same woman child and maid, shall from the time of such assent and agreement, have, hold and enjoy all such lands, tenements and hereditaments, as the same woman child and maiden had in possession, reversion or remainder, at the time of such consent and agreement, during the life of such person that shall so contract matrimony; [2] and after the decease of such person so contracting matrimony, that then the said lands, tenements and hereditaments, shall descend, revert, remain, and come to such person or persons as they should have done in case this Act had never been had ne made, other than to him only that so shall contract matrimony.

A. D. 1562.
5 Eliz. c. 9.

An Act for Punishment of such as shall procure or commit any wilful Perjury.

(See A. A. 1736-7.)

What punishment shall be inflicted upon persons who commit wilful perjury.
1 Roll 79.
2 Roll 195, 244, 429.
12 Co. 101.
Litch. 38.
Vaugh. 152.
Cro. Car. 352.
A Rehearsal of the Statute of 32 H. 8. c. 9. made against the subornation of witnesses.
Hetley 12.
Godbolt 71. pl. 86.
Savil 43.
Mod. cases in law 179.

WHERE in the parliament holden at Westminster in the 32d year of the reign of the late King of famous memory, King Henry the eighth, amongst other things it was ordained, enacted and established, that no person or persons of what estate, degree or condition soever he or they were, should from thenceforth unlawfully suborn any witness or witnesses, by letters, rewards, promises, or by any other sinister labour or means, for to maintain any matter or cause, or to the disturbance or hinderance of justice, or to the procurement or occasion of any manner of perjury, by false verdict or otherwise, in any of the King's Courts of Chancery, the Star Chamber, the Whitehall, or elsewhere within any of the King's dominions of England or Wales, or the marches of the same, where any person or persons have or from thenceforth should have authority by virtue of the King's commission, patent, or writ, to hold plea of land, or to examine, hear or determine any title of lands, or any matter or witnesses concerning the title, right or interest of any lands, tenements or hereditaments, upon pain of forfeiture for every such offence, ten pound, the one moiety thereof to be to the King, and the other to the party that would sue for the same, as by the same estatute amongst divers other things, more plainly it doth appear:

1 Haw. P. C. c. 69.
2 Hale's P. C. 191.

II. Sithence the making whereof, for that the said penalty is so small towards the offenders in that behalf, the said offence of subornation, and sinister procurement of false witnesses, hath nevertheless greatly increased and augmented; (2) and by reason of the wilful perjury committed by the same suborned witnesses, divers and sundry of the Queen's majesty's subjects have sustained disherison and great impoverishment, as well of their lands and tenements, as also of their goods and chattles:

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III. Be it therefore enacted, that all and every such person and persons, which at any time after the 10th day of April next coming shall unlawfully and corruptly procure any witness or witnesses by letters, rewards, promises, or by any other sinister and unlawful labour or means whatsoever, to commit any wilful and corrupt perjury, (2) in any matter or cause whatsoever now depending, or which hereafter shall depend in suit and variance, by any writ, action, bill, complaint or information, (3) in any wise touching or concerning any lands, tenements or hereditaments, or any goods, chattles, debts or damages, (4) in any of the courts before mentioned, or in any of the Queen's majesty's courts of record, or in any leet, view of frankpledge or law-day, ancient demean court, hundred court, court baron, or in the court or courts of the stannery in the counties of Devon and Cornwall; (5) or shall likewise unlawfully and corruptly procure or suborn any witness or witnesses, which shall from and after the said 10th day of April, be sworn to testify *in perpetuum rei memoriam*; (6) that then every such offender or offenders shall for his, hers or their said offence, being thereof lawfully convicted or attainted, lose and forfeit the sum of £40.

3 Bulstr. 147.
2 Leon. 198.
3 Leon. 201.
The penalty for procuring of wilful perjury. Coke, pla. 367.
Rast. pla. 481.
Goldsb. 191. pl. 140.
The penalty enlarged by A. A. 1735-7.

IV. And if it happen any such offender or offenders, so being convicted or attainted as aforesaid, not to have any goods or chattles, lands or tenements, to the value of £40, that then every such person so being convict or attainted of any the offences aforesaid, shall for his or their said offence suffer imprisonment by the space of one half year, without bail or mainprise, and to stand upon the pillory the space of one whole hour, in some market town next adjoining to the place where the offence was committed, in open market there, or in the market town itself where the offence was committed.

V. And that no person or persons being so convicted or attainted, to be from thenceforth received as a witness to be deposed and sworn in any court of record within any of the Queen's Highness's dominions of England, Wales, or the marches of the same, until such time as the judgment given against the said person or persons shall be reversed by attain or otherwise; (2) and that upon every such reversal, the parties grieved, to recover his or their damages against all and every such person and persons as did procure the said judgment so reversed to be first given against them or any of them, by action or actions to be sued upon his or their case or cases, according to the course of the common laws of this realm.

VI. And if any person or persons after the said 10th day of April next coming, either by the subornation, unlawful procurement, sinister persuasion, or means of any others, or by their own act, consent or agreement, wilfully and corruptly commit any manner of wilful perjury, by his or their deposition in any of the courts before mentioned, or being examined *ad perpetuum rei memoriam*, that then every person or persons so offending, and being thereof duly convict or attainted by the laws of this realm, shall for his or their said offence lose and forfeit £20, and to have imprisonment by the space of six months without bail or mainprise; (2) and the oath of such person or persons so offending, from thenceforth not to be received in any court of record within this realm of England or Wales, or the Marches of the same, until such time as the judgment given against the said person or persons shall be reversed by attain or otherwise: (3) and that upon every such reversal the parties grieved to recover his or their damages against all and every such person and persons as did procure the said judgment so reversed to be given against them or any of them, by

The penalty of him that doth commit wilful perjury. Coke, pla. 164.
165.
Cro. El. 201, 434.
Cro. Car. 99.
5 Coke, 99.

A. D. 1713.

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action or actions to be sued upon his or their case or cases, according to the course of the common laws of this realm.

VII. And if it happen the said offender or offenders so offending not to have any goods or chattles to the value of £20, that then he or they to be set on the pillory in some market-place within the shire, city or borough, where the said offence shall be committed, by the sheriff or his ministers, if it shall fortune to be without any city or town corporate; and if it happen to be within any such city or town corporate, then by the said head officer or officers of such city or town corporate, or by his or their ministers, and there to have both his ears nailed, and from thenceforth to be discredited and disabled forever to be sworn in any of the courts of record aforesaid, until such time as the judgment shall be reversed, and thereupon to recover his damages in manner and form before mentioned.

Who shall have the forfeitures, and by what means.

VIII. The one moiety of all which sums of money, goods and chattles, to be forfeited in manner and form aforesaid, to be to the Queen our Sovereign Lady, her heirs and successors, and the other moiety to such person or persons as shall be grieved, hindered or molested by reason of any the offence or offences before mentioned, that will sue for the same by action of debt, bill, plaint, information or otherwise, in any of the Queen's Majesty's courts of record, in the which no wager of law, essoin, protection or injunction to be allowed.

Who shall have authority to hear and determine the offences aforesaid.
Cro. El. 105,
147, 148, 267,
423.
Cro. Jac. 120,
133.

IX. And as well the Judge and Judges of every such of the said courts where any such suit is or shall be, and whereupon any such perjury is or shall happen to be committed, as also the Justices of Assizes and Gaol-delivery in their several circuits, and the Justices of the Peace in every county within this realm or in Wales, at their quarter sessions, both within the Liberties and without, shall have full power and authority by virtue hereof to enquire of all and every the defaults and offences perpetrated, committed or done contrary to this Act, by inquisition, presentment, bill or information, before them exhibited, or otherwise lawfully to hear and determine the same, and thereupon to give judgment, award process and execution of the same, according to the course of the laws of this realm.

This statute to be proclaimed at all assizes.

X. And the Justices of Assize of every circuit within this realm, and elsewhere within the Queen's dominions, shall in every county within their circuits, twice in the year, that is to say, in the time of their sittings, make open proclamation of this estatute or of the effect thereof, to the intent no person or persons shall be ignorant or miscognisant of the penalties herein contained.

Process served upon witnesses to testify.
1 Leon. 122.
March 18.
Cro. El. 130,
131.

XII. If any person or persons, upon whom any process out of any of the courts of record within this realm or Wales shall be served to testify or depose concerning any cause or matter depending in any of the same courts, (2) and having tendered unto him or them, according to his or their countenance or calling, such reasonable sums of money for his or their costs and charges, as having regard to the distance of the places is necessary to be allowed in that behalf, (3) do not appear according to the tenor of the said process, having not a lawful and reasonable let or impediment to the contrary; (4) that then the party making default, to lose and forfeit for every such offence £10, and to yield such further recompence to the party grieved, as by the discretion of the judge of the court, out of the which the said process shall be awarded, according to the loss and hinderance that the party which procured the said process shall sustain, by reason of the non-appearance of the said witness or witnesses; (5) the said several sums to be recovered by the party so grieved against the offender or offen-

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ders by action of debt, bill, plaint or information, in any of the Queen's Majesty's courts of record, in which no wager of law, essoin or protection, to be allowed.

An Act against Forgers of False Deeds and Writings.

5 Eliz. c. 14.

(See A. A. 1736-7.)

FORASMUCH as the wicked, pernicious and dangerous practice of making, forging and publishing false and untrue charters, evidences, deeds and writings, hath of late time been very much more practised; used and put in ure in all parts of this realm, than in times passed, not only to the high displeasure of God, but also to the great injury, wrong, hurt, damage, disherison and utter undoing of divers the Queen's Majesty's subjects of this realm, and to the great subversion of justice and truth; (1) which seemeth to have grown and happened chiefly by reason that the pains and punishments limited for such great and notable offences, by the laws and statutes of this realm, before this time have been and yet are so small, mild and easy, that such evil people have not been nor yet are afraid to enterprize the practising and doing of such offences:

II. Be it therefore enacted, That if any person or persons whatsoever, after the 1st day of June now next coming, upon his or their own head and imagination, or by false conspiracy and fraud with others, shall wittingly, subtilly and falsely forge or make, or subtilly cause or wittingly assent to be forged or made, any false deed, charter or writing sealed, court-roll, or the will of any person or persons in writing, (2) to the intent that the estate of freehold or inheritance of any person or persons, of, in or to any lands, tenements or hereditaments, freehold or copyhold, or the right, title or interest of any person or persons, of, in or to the same, or any of them, shall or may be molested, troubled, defeated, recovered or charged: (3) or after the said 1st day of June shall pronounce, publish or shew forth in evidence, any such false and forged deed, charter, writing, court-roll or will, as true, knowing the same to be false and forged, as is aforesaid, to the intent above remembered; (4) and shall be thereof convicted, either upon action or actions of forger of false deeds, to be founded upon this statute, at the suit of the party grieved, or otherwise according to the order and due course of the laws of this realm, or upon bill or information to be exhibited into the court of the Star-chamber, according to the order and use of that court, (5) shall pay unto the party grieved his double costs and damages, to be found or assessed in that court where such conviction shall be, (6) and also shall be set upon the pillory in some open market-town, or other open place, and there to have both his ears cut off, and also his nostrils to be slit and cut, and seared with a hot iron, so as they may remain for a perpetual note or mark of his falsehood, (7) and shall forfeit to the Queen our Sovereign Lady, her heirs and successors, the whole issues and profits of his lands and tenements during his life, (8) and also shall suffer and have perpetual imprisonment during his life; (9) The said damages and costs to be recovered at the suit of the party grieved as is aforesaid, to be first paid and levied of the goods and chattles of the offender, and of the issues and profits of the said lands, tenements and hereditaments of such party convicted or of one or both of them; the said title of our said Sovereign Lady the Queen, her heirs or successors, to the same notwithstanding.

III. If any person or persons after the said 1st day of June, upon his or

The several penalties for forging of deeds the first or second time, &c. Townsend's Table, 35. The mildness of law hath increased the forging of deeds.
3 Inst. 103, 169.
13 Co. 34, 35.
1 Haw. P.C. 182.
1 Hales P.C. 682.

Dyer 288, 302, 322.

Rest. 359.

The penalty for forging or publishing of a false deed, whereby another's freehold shall be troubled.

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Forging of a
Deed whereby
a lease or annu-
ity may be
claimed.
Forging of an
Obligation,
Acquittance,
Release, &c.
Godbold 62, p175.
2 Brownl. 49.
1 Lutw. 190.

their own head or imagination, or by false conspiracy or fraud had with any other, shall wittingly, subtilly and falsely forge or make, or wittingly, subtilly and falsely cause or assent to be made and forged, any false charter, deed or writing, (2) to the intent that any person or persons shall or may have or claim any estate or interest for term of years, of, in or to any manors, lands, tenements or hereditaments, not being copyhold, or any annuity in fee-simple, fee-tail, or for term of life, lives or years; (3) or after the said day shall as is aforesaid forge, make or cause or assent to be made or forged, any obligation, or bill obligatory, or any acquittance, release or other discharge of any debt, accompt, action, suit, demand or other things personal; (4) or if any person or persons after the said 1st day of June shall pronounce, publish or give in evidence, any such false and forged charter, deed, writing, obligation, bill obligatory, acquittance, release or discharge, as true, knowing the same to be false and forged, (5) and shall be thereof convicted by any the ways or means aforesaid: That then he shall pay unto the party grieved his double costs and damages, to be found and assessed in such court where the said conviction shall be had, (6) and shall be also set upon the pillory in some open market-town, or other open place, and there to have one of his ears cut off, (7) and shall also have and suffer imprisonment by the space of one whole year, without bail or mainprise.

The several
remedies of the
party grieved
against the
offender.

IV. And the party and parties grieved by reason of any the offences aforesaid, shall and may, at his and their pleasure, have and sue his action of forger of false deeds upon this statute, against any the offenders in the same, by original writ out of the Queen's Highness court of chancery, and shall and may have like process upon the same, as in cases of trespass at the common law; [2] or may at his pleasure take his suit against any such offenders in any the premises, by bill in the King's Bench, or in the Court of the Exchequer; in which suits no essoign, injunction or protection shall be allowed for the party defendant.

He that is once
punished for an
offence shall
not after be im-
peached for
the same.

V. And if the party defendant shall be convicted for any the offences aforesaid, according to the order and form above limited, and shall have received thereupon punishment corporal according to this Act, that then he shall not eftsoons be impeached for the same offence.

The plaintiff's
release shall
discharge only
his own
remedy.

VI. And although the party or parties plaintiff in any such action or bill to be sued, as is aforesaid, shall after verdict passed against the defendant or defendants, happen to release or discharge the judgment or execution upon the same, or otherwise suffer the same to be discontinued, That yet nevertheless the same release, discharge or discontinuance, shall extend only to discharge such costs and damages as the same plaintiff should have had against the defendant; [2] and that the judges before whom the said action or suit shall be taken, shall and may proceed to judgment of and upon the residue of the said penalties and forfeitures, and to command execution upon the same; the said release, discontinuance, or other discharge had, made, done or suffered by the party plaintiff, in any wise notwithstanding; this Act or any thing therein contained to the contrary in any wise notwithstanding.

The second
offence, felony

VII. And if any person or persons, being hereafter convicted or condemned of any of the offences aforesaid, by any the ways or means above limited, shall after any such his or their conviction or condemnation, eftsoons commit or perpetrate any of the said offences in form aforesaid, that then every such second offence or offences shall be adjudged felony; [2] and the parties being thereof convicted or attainted according to the laws

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of this realm, shall suffer such pains of death, loss and forfeiture of their goods, chattles, lands and tenements, as in cases of felony by the common laws of this realm ought to be lost or forfeited, [3] without having any advantage or benefit of clergy or sanctuary: [4] Saving to every person and persons, bodies politick and corporate, their heirs and successors, other than the said offenders, and such as claim to their uses, all such rights, titles, interests, possessions, liberties of distresses, leases, rents, reversions, offices and other profits and advantages, which they or any of them shall have at the time of such conviction or attainder, of, in or to any the lands, tenements or hereditaments of any such person so as is aforesaid convicted or attained, or at any time before, in as large and as ample manner, to all intents and purposes as if this Act had never been had ne made.

VIII. Provided, That any such conviction or attainder of felony, as is aforesaid, or any forfeiture by reason of the same, shall not in any wise extend to take away the dower of the wife of any such person attained, nor to the corruption of blood, or disherison of any the heir or heirs of any such person or persons so attained; this Act, or any thing therein contained, or any other statute, law, usage, custom or thing heretofore used to the contrary in any wise notwithstanding.

There shall be no forfeiture of dower or corruption of blood for this felony.

IX. Provided, That this Act, or any thing therein contained, shall not extend to charge any Ordinary, or any their commissaries, officials, registers, or any other their officers or ministers, with any the offences aforesaid, for putting their seal of office to any will to be exhibited unto them, not knowing the same to be false or forged, or for writing of the said will or probate of the same; this Act or any thing therein contained to the contrary notwithstanding.

Officials or Registers putting a Seal to a Will.

X. All and every Justices of Oyer and Determiner, and Justices of Assise in their circuits, and every of them, shall have full power and authority in every of their open and general sessions, to enquire, hear and determine of all and every the offences aforesaid committed or done within the limits of their commission, and to make process for the execution of the same, as they may do against any person being indicted before them of trespass, or lawfully convicted thereof.

Which Justices may hear and determine these offences. 9 Co. 118. Cro. El. 87,601.

XII. Provided always, That this Act, or any thing therein contained, shall not extend or be hurtful in any wise to any proctor, advocate or register of any ecclesiastical court within this realm, for the writing, setting forth or pleading of any proxy made according to the ecclesiastical laws or customs heretofore used and allowed by the ecclesiastical courts of this realm, for the appearance of any person or persons, being cited to appear in any of the said courts ecclesiastical, nor to any archdeacon or official, for putting their authentic seal to the said proxy or proxies, neither yet to any judge ecclesiastical for admitting of the same: (2) But that they and every of them may hereafter do in all points concerning the same, as they and every of them might lawfully have done before the making of this Act; any thing in this Act to the contrary in any wise notwithstanding.

To what persons this statute shall not extend.

XIII. Provided always, That if any person or persons whatsoever, that hath of his or their own head, or by false conspiracy and fraud with any other, wittingly, subtilly and falsely forged or made, (2) or shall before the said 1st day of June forge and make any false deed, charter or writing sealed, or the will of any person in writing, or any court-roll, to the intent that the estate of freehold or inheritance, or the right, title or interest of inheritance or freehold of any person or persons, of, in or to any manors, lands, tenements or hereditaments, being freehold or copyhold, (3) or that

Forging of Deeds before this statute, or presently after.

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by any such forged deed, charter, court-roll or writing, before the said 1st day of June shall or may be molested, troubled or defeated of any the said estates of any lands, tenements or hereditaments, being freehold or copyhold; (4) or if any person or persons have heretofore published or shewed forth in evidence, or before the said 1st day shall publish or shew in evidence for the proof of any title, any false or forged deed, charter, writing, will or court-roll, as true, knowing the same to be false and forged as is aforesaid, to the intent above remembered, (5) and shall be thereof attainted or convicted, according to the order of the laws of this realm, either in an action of forger of false *facts*, or in an action upon the case at the suit of the party grieved, his heirs, executors, or assigns, that then the party so convicted shall pay and yield damages and costs of suit to the plaintiff, as shall be assessed according to the order of the laws of this realm in any such like action or suit, (6) and shall suffer imprisonment and pay fine and ransom at the pleasure of the Queen's Majesty, her heirs and successors.

XIV. And if any person or persons shall after the said 1st day of June plead, publish or shew forth in evidence or otherwise, for the proof of any title, any false and forged deed, charter, writing, will, or court-roll, heretofore falsely made and forged, or to be falsely made and forged before the said 1st day of June, as true, knowing the same to be false and forged, (2) to the intent to have or claim thereby any estate of inheritance, freehold, or lease of years, in or to any manors, lands, tenements or hereditaments, or any annuity, rent or profit, forth of any manors, lands, tenements or hereditaments; (3) or to the intent to alter, defeat, molest, trouble, charge or recover the estate of inheritance, freehold or for years, of any person in any manors, lands, tenements, rents or hereditaments; (4) That then every person and persons that shall so offend, and shall be thereof convicted in form first above remembered, shall pay unto the party grieved double costs and damages; (5) and shall have imprisonment, loss of ears, slitting and searing of nose, and forfeiture of lands, in the same manner and form as above is limited for any person that shall offend by forging or publishing of any false deed or writing as is aforesaid, after the aforesaid 1st day of June.

The penalty for pleading or publishing a forged Deed made before this statute or shortly after.

XV. Provided always, That this Act nor any pain, forfeiture, or thing therein contained, shall not extend to any attorney, lawyer or counsellor that shall for his client plead, shew forth or give in evidence any false and forged deed, charter, will, court-roll or other writing, for true or good, being not party or privy to the forging of the same, for the pleading, shewing forth or giving in evidence of the same; any thing in this Act to the contrary notwithstanding.

A lawyer or attorney pleading a forged Deed.

XVI. Provided always, That this Act, or any thing therein contained, shall not extend to any person or persons that shall plead or shew forth any deed or writing, exemplified under the great seal of England, or under the seal of any other authentic court of this realm; (2) nor shall extend to any judge or justice, or other person, that shall cause any seal of any court to be set to any such deed, charter or writing inrolled, not knowing the same to be false or forged; any thing in this Act to the contrary notwithstanding.

Pleading a Writing exemplified, or setting a Seal to the same.

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An Act for the Punishment of the Vice of Buggery.

5 Eliz. c. 17.

(Unnecessary; as the 1 M. Sess. 1. c. 1, repealing the 25 H. 8. c. 6, which is to the same purpose as this Statute, is not of force here.)

WHERE in the Parliament begun at London the 3d day of November, in the 21st year of the late King of most famous memory, King Henry the Eighth, and after by prorogation holden at Westminster in the 25th year of the reign of the said late King, there was one act and statute made, entitled, An Act for the Punishment of the Vice of Buggery, whereby the said detestable vice was made felony, as in the said statute more at large it doth and may appear: (2) Forasmuch as the said statute concerning the punishment of the said crime and offence of Buggery standeth at this present repealed and void by virtue of the statute of repeal made in the 1st year of the reign of the late Queen Mary: Sithence which repeal so had and made, divers evil disposed persons have been the more bold to commit the said most horrible and detestable vice of Buggery aforesaid, to the high displeasure of Almighty God;

II. Be it enacted, That the said statute before mentioned, made in the 25th year of the said late King Henry the 8th, for the punishment of the said detestable vice of Buggery, and every branch, clause, article and sentence therein contained, shall from and after the 1st day of June next coming be revived, and from thenceforth shall stand, remain, and be in full force, strength and effect for ever, in such manner, form and condition, as the same statute was at the day of the death of the said late King Henry the Eighth; the said statute of repeal made in the said 1st year of the said late Queen Mary, or any words general or special therein contained, or any other act or acts, thing or things, to the contrary notwithstanding.

Coke, 391.

*An Act for the avoiding of wrongful Vexation touching the Writ of Latitat.*A. D. 1565.
8 Eliz. c. 2.

WHERE divers persons, of their malicious minds, and without any just cause, do many times cause and procure others of the Queen's Majesty's loving subjects, to be very much molested and troubled by attachments and arrests made of their bodies, as well by process of *Latitat*, alias and *pluries capius*, sued out of the court commonly called the King's Bench, as also by plaint, bill, or other suit in the court commonly called the Marshalsea, and within the city of London, and other cities, towns corporate, and places where any liberty or privilege is to hold pleas of debt, trespass, and other personal actions and suits; [2] And when the parties that be arrested or attached are brought forth to answer to such actions and suits as should be objected against them, then many times there is no declaration or matter laid against the parties so arrested or attached, whereunto they may make any answer; [3] and so the party arrested is very maliciously put to great charges and expences, without any just or reasonable cause: And yet nevertheless, hitherto, by order of the law, the party so grieved and vexed could never have any costs or damages to him to be judged or awarded for the said unjust vexation and trouble.

II. For remedy whereof, be it enacted, That when and as often as any person and persons, after the first day of January next coming, shall sue forth, or by any means cause or procure to be sued forth, of the said court commonly called the King's Bench, any of the writs or process before mentioned, against any person or persons which upon the same writ or

23 H. 8, c. 15.
The defendant shall recover costs and damages where the plaintiff doth delay or discontinue his suit, &c. 1 Roll. 371.
The inconvenience of pursuing of suits upon malice without just cause.

Cro. El. 236.

A. D. 1712.

English Statutes Made of Force.

Costs, damages and charges shall be awarded, where the plaintiff doth delay his suit, doth discontinue, or is nonsuit in the King's Bench.

23 H. 8, c. 15.
4 Jac. 1, c. 3.
Cro. El. 69.
Cro. Jac. 111.

writs shall happen to be arrested, or which shall appear upon the return of any of the said writs or process, [2] and shall put in his or their bail or bails to answer such suit as shall be objected against him, according to the common order of the court; [3] that then in every such case, if the party or parties at whose suit, means or procurement, the same writ, writs or process was obtained or sued forth, do not within 3 days next after such bail had and taken, put into the same court his or their declaration against the same party or parties against whom such writs or process hath been or shall be sued; [4] or if after declaration had and put into the same court, the plaintiff in such case shall not prosecute the same with effect, but shall willingly and apparently to the same court suffer his or their said suit to be delayed; [5] or shall after declaration so had, suffer the same suit to be discontinued, or otherwise shall be nonsuit in the same; [6] that then in every such case, the judges of the said court for the time being shall by their discretions from time to time, as they shall see or perceive any such default to be in the party or parties at whose suit, means or procurement such writs or process was sued forth, award and judge to every such person and persons so arrested, vexed, molested or troubled by such writs or suit, his and their costs, damages and charges by any means sustained by occasion of any such writs, process, arrests or suits, taken, sued or had against him, to be paid by such person or persons that so doth or shall cause or procure any such writs or process to be sued forth, as is aforesaid.

A remedy if the plaintiff do delay, discontinue, or is nonsuit in the marshalsea, or any city or town corporate.

III. And if any person or persons shall after the said 1st day of January cause or procure any other person or persons to be attached or arrested to answer to any bill, plaint, action or suit, in the said court of the Marshalsea, or in any court within the said city of London, or in any city, borough, town corporate or other place or places, where any liberty or privilege is used to hold plea in any action or actions personal, and do not, in all courts having their continuance *de die in diem*, within three days next after such time as the party defendant or defendants shall be bailed, or otherwise appear in court, by force of any arrest or attachment had and returned, and in all other courts, at the next sessions or court to be holden after such arrests or attachments, and appearance of the party defendant or defendants, whereat the said party defendant or defendants shall be compelled or ought to appear, (unless a further day shall be specially given by the discretion of the court from whence any precept, process or attachment shall be awarded) put and exhibit his bill or declaration against such person or persons, as so by his suit and means shall be attached or arrested, into such Court where the party by such attachment or arrest is compelled or ought to appear; (2) or if any such person or persons, at whose suit and means any such attachment or arrest of any person or persons shall be so had and made, after his declaration, bill or plaint exhibited, do not from thenceforth prosecute the same his suit with effect, or shall suffer the same to be discontinued, or shall after be non-suit in the same, or willingly and apparently to the same court, shall for vexation of the defendant in such suit delay the same suit; (3) that then in every such case the judge or judges of every such court before whom any person or persons shall be so sued, molested or troubled by occasion or mean of such attachment or arrest, or by such suit or suits, shall forthwith by his or their discretion, from time to time, as he or they shall see or perceive any such default or delay in the party that caused or procured any such attachment or arrest to be had, award and judge to every such person or persons, which after the said

English Statutes Made of Force.

A.D. 1712.

1st day of January shall be so attached, arrested, molested, vexed or troubled, his costs, damages and charges, by any means sustained by occasion of any such attachment, arrest or suit, so had and taken against him, to be paid by such person or persons that so doth or shall cause or procure any such attachment or arrest to be so had or made.

IV. And if any person or persons at any time after the said 1st day of January shall by any way or mean, maliciously, or for vexation and trouble, cause or procure any other person or persons to be arrested, or attached to answer in any the courts or places aforesaid, at the suit or in the name of any person or persons, where indeed there is no such person or persons known, or without the assent, consent or agreement of such person or persons, at whose suit or in whose name such arrest or attachment is or shall be so had and procured, that then every such person and persons that shall so cause or procure any such arrest or attachment of any other person or persons to be had or made for vexation or trouble, as is aforesaid, and shall thereof be convicted or lawfully accused by indictment, presentment, or by the testimony of 2 sufficient witnesses or more, or other due proof, shall for every such offence by him or them committed, done or procured, have and suffer imprisonment of his or their body or bodies by the space of six months without bail or mainprise; (2) and before he or they shall be delivered out of prison, shall pay unto the party or parties so arrested or attached by his or their means or procurement, treble the costs, charges, damages and expenses that he or they shall be put unto by reason or occasion of such arrest or attachment so had; (3) and shall also forfeit and pay unto such person or persons in whose name or at whose suit he or they shall so procure such arrest or attachment to be had or made, if then there shall be any such person known, the sum of £10 for every such offence.

The penalty for arresting of any person at the suit of another not knowing thereof.
Cro. Jac. 188.
Lutw. 166.

V. And every person and persons to whom any costs, charges, damages, forfeiture or payment of any sum or sums of money by authority of this Act shall be awarded, judged or forfeited, shall and may at all times hereafter have his or their remedy for the recovery thereof, by action of debt, bill, or plaint, in any court of record, against such person or persons, their heirs, executors or administrators, as should or ought to pay the same by virtue or force of this Act, in which action, bill or plaint, no essoin, protection or wager of law shall be admitted or allowed to any the defendant or defendants in the same.

A remedy to recover the costs and damages awarded.
See farther in what cases costs are given,
4 Jac. 1. c. 3.
13 Car. 2. stat. 2. c. 2.
4 Ann. c. 16.

An Act to take away the benefit of Clergy from certain offenders for Felony. 8 Eliz. c. 4.

WHERE a certain kind of evil disposed persons, commonly called cut-purses or pick-purses, but indeed by the laws of this land very felons and thieves, do confeder together, making among themselves as it were a brotherhood or fraternity of an art or mystery, to live idly by the secret spoil of the good and true subjects of this realm; (2) and as well at sermons and preachings of the word of God, and in places and time of doing service and common prayer in churches, chapels, closets and oratories, and not only there, but also in the Prince's palace, house, yea and presence, and at the places and courts of justice, and at the times of ministration of the laws in the same, and in fairs, markets and other assemblies of the people, yea and at the time of doing of execution of such as been attainted of any murder, felony or other criminal cause ordained chiefly for terror

He that taketh away privily from the person of another, money or goods, shall not have his clergy, &c.
The impudent boldness of cutting purses and picking purses.

A. D. 1742.

English Statutes Made of Force.

Costs, damages and charges shall be awarded, where the plaintiff doth delay his suit, doth discontinue, or is nonsuit in the King's Bench.

23 H. 8, c. 15.
4 Jac. 1, c. 3.
Cro. El. 69.
Cro. Jac. 111.

writs shall happen to be arrested, or which shall appear upon the return of any of the said writs or process, [2] and shall put in his or their bail or bails to answer such suit as shall be objected against him, according to the common order of the court; [3] that then in every such case, if the party or parties at whose suit, means or procurement, the same writ, writs or process was obtained or sued forth, do not within 3 days next after such bail had and taken, put into the same court his or their declaration against the same party or parties against whom such writs or process hath been or shall be sued; [4] or if after declaration had and put into the same court, the plaintiff in such case shall not prosecute the same with effect, but shall willingly and apparently to the same court suffer his or their said suit to be delayed; [5] or shall after declaration so had, suffer the same suit to be discontinued, or otherwise shall be nonsuit in the same; [6] that then in every such case, the judges of the said court for the time being shall by their discretions from time to time, as they shall see or perceive any such default to be in the party or parties at whose suit, means or procurement such writs or process was sued forth, award and judge to every such person and persons so arrested, vexed, molested or troubled by such writs or suit, his and their costs, damages and charges by any means sustained by occasion of any such writs, process, arrests or suits, taken, sued or had against him, to be paid by such person or persons that so doth or shall cause or procure any such writs or process to be sued forth, as is aforesaid.

A remedy if the plaintiff do delay, discontinue, or is nonsuit in the marshalsea, or any city or town corporate.

III. And if any person or persons shall after the said 1st day of January cause or procure any other person or persons to be attached or arrested to answer to any bill, plaint, action or suit, in the said court of the Marshalsea, or in any court within the said city of London, or in any city, borough, town corporate or other place or places, where any liberty or privilege is used to hold plea in any action or actions personal, and do not, in all courts having their continuance *de die in diem*, within three days next after such time as the party defendant or defendants shall be bailed, or otherwise appear in court, by force of any arrest or attachment had and returned, and in all other courts, at the next sessions or court to be holden after such arrests or attachments, and appearance of the party defendant or defendants, whereat the said party defendant or defendants shall be compelled or ought to appear, (unless a further day shall be specially given by the discretion of the court from whence any precept, process or attachment shall be awarded) put and exhibit his bill or declaration against such person or persons, as so by his suit and means shall be attached or arrested, into such Court where the party by such attachment or arrest is compelled or ought to appear; (2) or if any such person or persons, at whose suit and means any such attachment or arrest of any person or persons shall be so had and made, after his declaration, bill or plaint exhibited, do not from thenceforth prosecute the same his suit with effect, or shall suffer the same to be discontinued, or shall after be non-suit in the same, or willingly and apparently to the same court, shall for vexation of the defendant in such suit delay the same suit; (3) that then in every such case the judge or judges of every such court before whom any person or persons shall be so sued, molested or troubled by occasion or mean of such attachment or arrest, or by such suit or suits, shall forthwith by his or their discretion, from time to time, as he or they shall see or perceive any such default or delay in the party that caused or procured any such attachment or arrest to be had, award and judge to every such person or persons, which after the said

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A. D. 1712.

1st day of January shall be so attached, arrested, molested, vexed or troubled, his costs, damages and charges, by any means sustained by occasion of any such attachment, arrest or suit, so had and taken against him, to be paid by such person or persons that so doth or shall cause or procure any such attachment or arrest to be so had or made.

IV. And if any person or persons at any time after the said 1st day of January shall by any way or mean, maliciously, or for vexation and trouble, cause or procure any other person or persons to be arrested, or attached to answer in any the courts or places aforesaid, at the suit or in the name of any person or persons, where indeed there is no such person or persons known, or without the assent, consent or agreement of such person or persons, at whose suit or in whose name such arrest or attachment is or shall be so had and procured, that then every such person and persons that shall so cause or procure any such arrest or attachment of any other person or persons to be had or made for vexation or trouble, as is aforesaid, and shall thereof be convicted or lawfully accused by indictment, presentment, or by the testimony of 2 sufficient witnesses or more, or other due proof, shall for every such offence by him or them committed, done or procured, have and suffer imprisonment of his or their body or bodies by the space of six months without bail or mainprise; (2) and before he or they shall be delivered out of prison, shall pay unto the party or parties so arrested or attached by his or their means or procurement, treble the costs, charges, damages and expenses that he or they shall be put unto by reason or occasion of such arrest or attachment so had; (3) and shall also forfeit and pay unto such person or persons in whose name or at whose suit he or they shall so procure such arrest or attachment to be had or made, if then there shall be any such person known, the sum of £10 for every such offence.

The penalty for arresting of any person at the suit of another not knowing thereof.
Cro. Jac. 188.
Lutw. 166.

V. And every person and persons to whom any costs, charges, damages, forfeiture or payment of any sum or sums of money by authority of this Act shall be awarded, judged or forfeited, shall and may at all times hereafter have his or their remedy for the recovery thereof, by action of debt, bill, or plaint, in any court of record, against such person or persons, their heirs, executors or administrators, as should or ought to pay the same by virtue or force of this Act, in which action, bill or plaint, no essoin, protection or wager of law shall be admitted or allowed to any the defendant or defendants in the same.

A remedy to recover the costs and damages awarded.
See farther in what cases costs are given,
4 Jac. 1. c. 3.
13 Car. 2. stat. 2. c. 2.
4 Ann. c. 16.

An Act to take away the benefit of Clergy from certain offenders for Felony. 8 Eliz. c. 4.

WHERE a certain kind of evil disposed persons, commonly called cut-purses or pick-purses, but indeed by the laws of this land very felons and thieves, do confeder together, making among themselves as it were a brotherhood or fraternity of an art or mystery, to live idly by the secret spoil of the good and true subjects of this realm; (2) and as well at sermons and preachings of the word of God, and in places and time of doing service and common prayer in churches, chapels, closets and oratories, and not only there, but also in the Prince's palace, house, yea and presence, and at the places and courts of justice, and at the times of ministration of the laws in the same, and in fairs, markets and other assemblies of the people, yea and at the time of doing of execution of such as been attainted of any murder, felony or other criminal cause ordained chiefly for terror

He that taketh away privily from the person of another, money or goods, shall not have his clergy, &c.
The impudent boldness of cutting purses and picking purses.

A. D. 1712

English Statutes Made of Force.

and example of evil-doers, do without respect or regard of any time, place or person, or of any fear or dread of God, or any law or punishment, under the cloak of honesty by their outward apparel, countenance and behaviour, subtilty, privily, craftily and feloniously take the goods of divers good and honest subjects from their persons, by cutting and picking their purses, and other felonious sleights and devices, to the utter undoing and impoverishing of many.

2 Roll 151.
Burn. V. 1. 206.

II. Be it therefore enacted, that no person or persons which hereafter shall happen to be indicted or appealed for felonious taking of any money, goods or chattles from the person of any other, privily without his knowledge, in any place whatsoever, and thereupon found guilty by verdict of 12 men, or shall confess the same upon his or their arraignment, or will not answer directly to the same according to the laws of this realm, or shall stand wilfully or of malice or obstinately mute, or challenge peremptorily above the number of 20, or shall be upon such indictment or appeal outlawed, shall from henceforth be admitted to have the benefit of his or their clergy, but utterly be excluded thereof, and shall suffer death in such manner and form as they should if they were no clerks.

Where one shall be arraigned for a former offence, having his clergy for a latter.
Enforced by 18 Eliz. c. 7.
25 Ed. 3. stat. 3. c. 5.
Poph. 107.

III. And also whereas divers persons do oft-times commit and do divers and sundry detestable murders, heinous robberies and felonies and other capital offences, for the which clergy is not allowable by the laws and statutes of this realm, and after the same offences so done do either fly out of the county or other parts of this realm into the parts beyond the seas, or keep themselves secret in other places where they are not known for a great time, and after happen to commit some other felony for the which they may have their clergy, and being arraigned for the same have their clergy to them allowed, and thereupon committed to the custody of the ordinary according to the law and custom of this realm, the former offence wherein clergy is not grantable being not then known; (2) and so by that means cannot after be impeached for the said other horrible and great offences by the law and custom of this realm, to the great encouraging of offenders using such practices of foreknowledge and set purpose, for their discharge of the same;

IV. For reformation whereof, be it further enacted, that every person or persons which shall hereafter upon his and their arraignment for any felony be admitted to the benefit of his clergy by the laws of this realm, and delivered to the ordinary for the same, and shall make his due purgation for the same offence or offences whereupon he was so admitted to his clergy, and shall before the same admission to his clergy have committed any other such offence whereupon clergy by the laws or statutes of this realm is not allowable, and not being thereof before indicted and acquitted, convicted or attainted, or pardoned, shall and may be indicted or appealed for the same, and thereupon put to answer, and ordered and used in all things according to the laws and statutes of this realm, in such like manner and form as though no such admission of clergy had been; any law, custom or usage to the contrary notwithstanding.

A. D. 1570.
13 Eliz. c. 5.

An Act against fraudulent Deeds, Alienations, &c.

3 H. 7. c. 4.
Fraudulent
deeds made to
avoid the debts

FOR the avoiding and abolishing of feigned, covinous and fraudulent feoffments, gifts, grants, alienations, conveyances, bonds, suits, judgments and executions, as well of lands and tenements as of goods and chattles, more commonly used and practised in these days than hath been seen or

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heard of heretofore; (2) which feoffments, gifts, grants, alienations, conveyances, bonds, suits, judgments and executions, have been and are devised and contrived of malice, fraud, covin, collusion or guile, to the end, purpose and intent, to delay, hinder or defraud creditors and others of their just and lawful actions, suits, debts, accounts, damages, penalties, forfeitures, heriots, mortuaries and reliefs, not only to the let or hinderance of the due course and execution of law and justice, but also to the overthrow of all true and plain dealing, bargaining and chevisance between man and man, without the which no commonwealth or civil society can be maintained or continued.

II. Be it therefore enacted, that all and every feoffment, gift, grant, alienation, bargain and conveyance of lands, tenements, hereditaments, goods and chattles, or of any of them, or of any lease, rent, commons or other profit or charge out of the same lands, tenements, hereditaments, goods and chattles, or any of them, by writing or otherwise; (2) and all and every bond, suit, judgment and execution, at any time had or made sithence the beginning of the Queen's majesty's reign that now is, or any time hereafter to be had or made, (3) to or for any intent or purpose before declared and expressed, shall be from henceforth deemed and taken (only as against that person or persons, his or their heirs, successors, executors, administrators and assigns, and every of them, whose actions, suits, debts, accounts, damages, penalties, forfeitures, heriots, mortuaries and reliefs, by such guileful, covinous or fraudulent devices and practices, as is aforesaid, are, shall or might be in any ways disturbed, hindered, delayed or defrauded) to be clearly and utterly void, frustrate and of none effect; any pretence, colour, feigned consideration, expressing of use, or any other matter or thing to the contrary notwithstanding.

Vin. V. 13—533.

III. And all and every the parties to such feigned, covinous or fraudulent feoffment, gift, grant, alienation, bargain, conveyance, bonds, suits, judgments, executions, and other things before expressed, and being privy and knowing of the same, or any of them; (2) which at any time after the 10th day of June next coming, shall wittingly and willingly put in ure, avow, maintain, justify or defend the same, or any of them, as true, simple, and done, had or made *bona fide* and upon good consideration; (3) or shall alien or assign any the lands, tenements, goods, leases or other things before mentioned, to him or them conveyed as is aforesaid, or any part thereof; (4) shall incur the penalty and forfeiture of 1 year's value of the said lands, tenements and hereditaments, leases, rents, commons or other profits, of or out of the same; (5) and the whole value of the said goods and chattles; (6) and also so much money as are or shall be contained in any such covinous and feigned bond; (7) the one moiety whereof to be to the Queen's majesty, her heirs and successors, and the other moiety to the party or parties grieved by such feigned and fraudulent feoffment, gift, grant, alienation, bargain, conveyance, bonds, suits, judgments, executions, leases, rents, commons, profits, charges and other things aforesaid, to be recovered in any of the Queen's courts of record by action of debt, bill, plaint or information, wherein no essoin, protection or wager of law shall be admitted for the defendant or defendants; (8) and also being thereof lawfully convicted, shall suffer imprisonment for one half year without bail or mainprize.

A. D. 1712.

English Statutes Made of Force.

Common recoveries against the tenants of freehold.

IV. Provided always, that whereas sundry common recoveries of lands, tenements and hereditaments have heretofore been had, and hereafter may be had against tenant in tail, or other tenant of the freehold the reversion or remainder, or the right of reversion or remainder, then being in any other person or persons; (2) that every such common recovery heretofore had, and hereafter to be had, of any lands, tenements or hereditaments, shall, as touching such person and persons which then had any remainder or reversion, or right of remainder or reversion, and against the heirs of every of them, stand, remain and be of such like force and effect, and of none other, as the same should have been if this Act had never been had ne made.

Making an estate whereby a voucher may be used in Formedon.

V. Provided always, that this Act, or any thing therein contained, shall not extend to make void any estate or conveyance, by reason whereof any person or persons shall use any voucher in any writ of *Formedon*, now depending or hereafter to be depending, but that all and every such vouchers in any writ of *Formedon* shall stand and be in like force and effect, as if this Act had never been had ne made; any thing before in this Act contained to the contrary notwithstanding.

Estates made upon good consideration, and bona fide. For farther provision against fraudulent conveyances, see 29 Car. 2. c. 3. and 3 W. & M. c. 14.

VI. Provided also, that this Act, or any thing therein contained, shall not extend to any estate or interest in lands, tenements, hereditaments, leases, rents, commons, profits, goods or chattles, had, made, conveyed or assured, or hereafter to be had, made, conveyed or assured, which estate or interest is or shall be upon good consideration and *bona fide* lawfully conveyed or assured to any person or persons, or bodies politic or corporate, not having at the time of such conveyance or assurance to them made, any manner of notice or knowledge of such covin, fraud or collusion as is aforesaid; any thing before mentioned to the contrary hereof notwithstanding.

A. D. 1576.
18 Eliz. c. 7.

An Act to take away Clergy from the offenders in Rape or Burglary, and an order for the delivery of Clerks convict without purgation.

3 Inst. 65, 214.
Hob. 291.
13 Ed. 1. stat. 1. c. 34.
None shall have clergy that committeth rape or burglary.
11 Co. 33.
Farther concerning burglary, see 3 W. & M. c. 9.
& A. A. August 23, 1769.

FOR the repressing of the most wicked and felonious rapes or ravishments of women, maids, wives and damosels, and of felonious burglaries, and for the avoiding of sundry perjuries and other abuses, in and about the purgation of clerks convict delivered to the ordinaries, (2) be it enacted, that if any person or persons shall fortune at any time after the 1st day of June now next ensuing, to commit or do any manner of felonious rape, ravishment, or burglary, and to be found guilty by verdict, of any felonious rape or burglary, (3) or that any person or persons shall fortune to be outlawed for any the offences aforesaid, (4) or upon his or their arraignment shall confess any such felonious rape or burglary; (5) that in every such case, every person and persons so being found guilty, outlawed or confessing any of the said felonious rapes or burglaries, shall suffer pains of death, and forfeit as in cases of felony hath been used and accustomed by the common laws of this realm, without any allowance of the privilege or benefit of clergy; any law, custom, or usage heretofore had, made or used to the contrary notwithstanding.

No man allowed his clergy, shall be committed to the Ordinary, but presently

II. And moreover, every person and persons, which at any time after the end of this present session of parliament, shall be admitted and allowed to have the benefit or privilege of his or their clergy, shall not thereupon be delivered to the ordinary as hath been accustomed, but after such clergy allowed, and burning in the hand, according to the statute in that behalf provided, shall forthwith be enlarged and delivered out of prison by the

English Statutes Made of Force.

A. D. 1712.

justices before whom such clergy shall be granted, that cause notwithstanding delivered.
4 H. 7. c. 13.

III. Provided nevertheless, that the justices before whom any such allowance of clergy shall be had, shall and may for the further correction of such persons to whom such clergy shall be allowed, detain and keep them in prison for such convenient time as the same justices in their discretions shall think convenient, so as the same do not exceed one year's imprisonment; any law or usage heretofore had or used to the contrary in any wise notwithstanding. The justices may retain offenders in prison for a time.
5 Co. 110.
Cro. Jac. 430.
2 Balstr. 127.

IV. And for plain declaration of law, be it enacted, that if any person shall unlawfully and carnally know and abuse any woman child under the age of 10 years, every such unlawful and carnal knowledge shall be felony, and the offender thereof being duly convicted, shall suffer as a felon without allowance of clergy. To know a woman carnally under the age of 10 years shall be felony.

V. Provided always, that all and every person and persons, which shall hereafter be admitted to have the benefit of his or their clergy, shall notwithstanding his or their admission to the same, be put to answer to all other felonies whereof he or they shall be hereafter indicted or appealed, and not being thereof before acquitted, convicted, attainted or pardoned, (2) and shall in such manner and form be arraigned, tried, adjudged, and suffer such execution for the same, as he or they should have done, if, as clerk or clerks convict, they had been delivered to the ordinary, and there had made his or their purgations, any thing in this Act contained to the contrary notwithstanding. He that is allowed his clergy shall answer to other felonies.
8 El. c. 4.
Dyer 214. pl. 48.

*An Act against Covinous and fraudulent Conveyances.*A. D. 1585.
27 Eliz. c. 4.

FORASMUCH as not only the Queen's most excellent majesty, but also divers of her highness good and loving subjects, and bodies politic and corporate, after conveyances obtained, or to be obtained, and purchases made or to be made, of lands, tenements, leases, estates and hereditaments, for money or other good considerations, may have, incur and receive great loss and prejudice by reason of fraudulent and covinous conveyances, estates, gifts, grants, charges and limitations of uses heretofore made or hereafter to be made, of, in or out of lands, tenements or hereditaments so purchased or to be purchased; (2) which said gifts, grants, charges, estates, uses and conveyances were, or hereafter shall be, meant and intended by the parties that so make the same to be fraudulent and covinous, of purpose and intent to deceive such as have purchased or shall purchase the same; (3) or else by the secret intent of the parties the same to be to their own proper use, and at their free disposition; (4) coloured nevertheless by a fained countenance and shew of words and sentences, as though the same were made *bona fide*, for good causes, and upon just and lawful considerations;

II. For remedy of which inconveniences, and for the avoiding of such fraudulent, fained and covinous conveyances, gifts, grants, charges, uses and estates, and for the maintenance of upright and just dealing in the purchasing of lands, tenements and hereditaments; (2) be it enacted, that all and every conveyance, grant, charge, lease, estate, incumbrance and limitation of use or uses, of, in or out of any lands, tenements or other hereditaments whatsoever, had or made any time heretofore sithence the beginning of the Queen's majesty's reign that now is, or at any time hereafter to be had or made, for the intent and of purpose to defraud and Fraudulent conveyances made to deceive purchasers shall be void.
3 H. 7. c. 4.
Moor. 602.
pl. 833, 615.
pl. 843.
Roll. 167.

A. D. 1712.

English Statutes Made of Force.

Costs, damages and charges shall be awarded, where the plaintiff doth delay his suit, doth discontinue, or is nonsuit in the King's Bench.

23 H. 8, c. 15.
4 Jac. 1, c. 3.
Cro. El. 69.
Cro. Jac. 111.

writs shall happen to be arrested, or which shall appear upon the return of any of the said writs or process, [2] and shall put in his or their bail or bails to answer such suit as shall be objected against him, according to the common order of the court; [3] that then in every such case, if the party or parties at whose suit, means or procurement, the same writ, writs or process was obtained or sued forth, do not within 3 days next after such bail had and taken, put into the same court his or their declaration against the same party or parties against whom such writs or process hath been or shall be sued; [4] or if after declaration had and put into the same court, the plaintiff in such case shall not prosecute the same with effect, but shall willingly and apparently to the same court suffer his or their said suit to be delayed; [5] or shall after declaration so had, suffer the same suit to be discontinued, or otherwise shall be nonsuit in the same; [6] that then in every such case, the judges of the said court for the time being shall by their discretions from time to time, as they shall see or perceive any such default to be in the party or parties at whose suit, means or procurement such writs or process was sued forth, award and judge to every such person and persons so arrested, vexed, molested or troubled by such writs or suit, his and their costs, damages and charges by any means sustained by occasion of any such writs, process, arrests or suits, taken, sued or had against him, to be paid by such person or persons that so doth or shall cause or procure any such writs or process to be sued forth, as is aforesaid.

A remedy if the plaintiff do delay, discontinue, or is nonsuit in the marshalsea, or any city or town corporate.

III. And if any person or persons shall after the said 1st day of January cause or procure any other person or persons to be attached or arrested to answer to any bill, plaint, action or suit, in the said court of the Marshalsea, or in any court within the said city of London, or in any city, borough, town corporate or other place or places, where any liberty or privilege is used to hold plea in any action or actions personal, and do not, in all courts having their continuance *de die in diem*, within three days next after such time as the party defendant or defendants shall be bailed, or otherwise appear in court, by force of any arrest or attachment had and returned, and in all other courts, at the next sessions or court to be holden after such arrests or attachments, and appearance of the party defendant or defendants, whereat the said party defendant or defendants shall be compelled or ought to appear, (unless a further day shall be specially given by the discretion of the court from whence any precept, process or attachment shall be awarded) put and exhibit his bill or declaration against such person or persons, as so by his suit and means shall be attached or arrested, into such Court where the party by such attachment or arrest is compelled or ought to appear; (2) or if any such person or persons, at whose suit and means any such attachment or arrest of any person or persons shall be so had and made, after his declaration, bill or plaint exhibited, do not from thenceforth prosecute the same his suit with effect, or shall suffer the same to be discontinued, or shall after be non-suit in the same, or willingly and apparently to the same court, shall for vexation of the defendant in such suit delay the same suit; (3) that then in every such case the judge or judges of every such court before whom any person or persons shall be so sued, molested or troubled by occasion or mean of such attachment or arrest, or by such suit or suits, shall forthwith by his or their discretion, from time to time, as he or they shall see or perceive any such default or delay in the party that caused or procured any such attachment or arrest to be had, award and judge to every such person or persons, which after the said

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1st day of January shall be so attached, arrested, molested, vexed or troubled, his costs, damages and charges, by any means sustained by occasion of any such attachment, arrest or suit, so had and taken against him, to be paid by such person or persons that so doth or shall cause or procure any such attachment or arrest to be so had or made.

IV. And if any person or persons at any time after the said 1st day of January shall by any way or mean, maliciously, or for vexation and trouble, cause or procure any other person or persons to be arrested, or attached to answer in any the courts or places aforesaid, at the suit or in the name of any person or persons, where indeed there is no such person or persons known, or without the assent, consent or agreement of such person or persons, at whose suit or in whose name such arrest or attachment is or shall be so had and procured, that then every such person and persons that shall so cause or procure any such arrest or attachment of any other person or persons to be had or made for vexation or trouble, as is aforesaid, and shall thereof be convicted or lawfully accused by indictment, presentment, or by the testimony of 2 sufficient witnesses or more, or other due proof, shall for every such offence by him or them committed, done or procured, have and suffer imprisonment of his or their body or bodies by the space of six months without bail or mainprise; (2) and before he or they shall be delivered out of prison, shall pay unto the party or parties so arrested or attached by his or their means or procurement, treble the costs, charges, damages and expenses that he or they shall be put unto by reason or occasion of such arrest or attachment so had; (3) and shall also forfeit and pay unto such person or persons in whose name or at whose suit he or they shall so procure such arrest or attachment to be had or made, if then there shall be any such person known, the sum of £10 for every such offence.

V. And every person and persons to whom any costs, charges, damages, forfeiture or payment of any sum or sums of money by authority of this Act shall be awarded, judged or forfeited, shall and may at all times hereafter have his or their remedy for the recovery thereof, by action of debt, bill, or plaint, in any court of record, against such person or persons, their heirs, executors or administrators, as should or ought to pay the same by virtue or force of this Act, in which action, bill or plaint, no essoin, protection or wager of law shall be admitted or allowed to any the defendant or defendants in the same.

An Act to take away the benefit of Clergy from certain offenders for Felony. 8 Eliz. c. 4.

WHERE a certain kind of evil disposed persons, commonly called cut-purses or pick-purses, but indeed by the laws of this land very felons and thieves, do confeder together, making among themselves as it were a brotherhood or fraternity of an art or mystery, to live idly by the secret spoil of the good and true subjects of this realm; (2) and as well at sermons and preachings of the word of God, and in places and time of doing service and common prayer in churches, chapels, closets and oratories, and not only there, but also in the Prince's palace, house, yea and presence, and at the places and courts of justice, and at the times of ministration of the laws in the same, and in fairs, markets and other assemblies of the people, yea and at the time of doing of execution of such as been attainted of any murder, felony or other criminal cause ordained chiefly for terror

The penalty for arresting of any person at the suit of another not knowing thereof.
Cro. Jac. 188.
Lutw. 166.

A remedy to recover the costs and damages awarded.
See farther in what cases costs are given,
4 Jac. 1. c. 3.
13 Car. 2. stat.
2. c. 2.
4 Ann. c. 16.

He that taketh away privily from the person of another, money or goods, shall not have his clergy, &c.
The impudent boldness of cutting purses and picking purses.

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English Statutes Made of Force.

and example of evil-doers, do without respect or regard of any time, place or person, or of any fear or dread of God, or any law or punishment, under the cloak of honesty by their outward apparel, countenance and behaviour, subtilty, privily, craftily and feloniously take the goods of divers good and honest subjects from their persons, by cutting and picking their purses, and other felonious sleights and devices, to the utter undoing and impoverishing of many.

2 Roll 151.
Burn. V. 1. 206.

II. Be it therefore enacted, that no person or persons which hereafter shall happen to be indicted or appealed for felonious taking of any money, goods or chattles from the person of any other, privily without his knowledge, in any place whatsoever, and thereupon found guilty by verdict of 12 men, or shall confess the same upon his or their arraignment, or will not answer directly to the same according to the laws of this realm, or shall stand wilfully or of malice or obstinately mute, or challenge peremptorily above the number of 20, or shall be upon such indictment or appeal outlawed, shall from henceforth be admitted to have the benefit of his or their clergy, but utterly be excluded thereof, and shall suffer death in such manner and form as they should if they were no clerks.

Where one shall be arraigned for a former offence, having his clergy for a latter.
Enforced by 18 Eliz. c. 7.
25 Ed. 3. stat. 3. c. 5.
Poph. 107.

III. And also whereas divers persons do oft-times commit and do divers and sundry detestable murders, heinous robberies and felonies and other capital offences, for the which clergy is not allowable by the laws and statutes of this realm, and after the same offences so done do either fly out of the county or other parts of this realm into the parts beyond the seas, or keep themselves secret in other places where they are not known for a great time, and after happen to commit some other felony for the which they may have their clergy, and being arraigned for the same have their clergy to them allowed, and thereupon committed to the custody of the ordinary according to the law and custom of this realm, the former offence wherein clergy is not grantable being not then known; (2) and so by that means cannot after be impeached for the said other horrible and great offences by the law and custom of this realm, to the great encouraging of offenders using such practices of foreknowledge and set purpose, for their discharge of the same;

IV. For reformation whereof, be it further enacted, that every person or persons which shall hereafter upon his and their arraignment for any felony be admitted to the benefit of his clergy by the laws of this realm, and delivered to the ordinary for the same, and shall make his due purgation for the same offence or offences whereupon he was so admitted to his clergy, and shall before the same admission to his clergy have committed any other such offence whereupon clergy by the laws or statutes of this realm is not allowable, and not being thereof before indicted and acquitted, convicted or attainted, or pardoned, shall and may be indicted or appealed for the same, and thereupon put to answer, and ordered and used in all things according to the laws and statutes of this realm, in such like manner and form as though no such admission of clergy had been; any law, custom or usage to the contrary notwithstanding.

A. D. 1570.
13 Eliz. c. 5.

An Act against fraudulent Deeds, Alienations, &c.

FOR the avoiding and abolishing of feigned, covinous and fraudulent feoffments, gifts, grants, alienations, conveyances, bonds, suits, judgments and executions, as well of lands and tenements as of goods and chattles, more commonly used and practised in these days than hath been seen or

3 H. 7. c. 4.
Fraudulent deeds made to avoid the debts

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A. D. 1712.

heard of heretofore; (2) which feoffments, gifts, grants, alienations, conveyances, bonds, suits, judgments and executions, have been and are devised and contrived of malice, fraud, covin, collusion or guile, to the end, purpose and intent, to delay, hinder or defraud creditors and others of their just and lawful actions, suits, debts, accounts, damages, penalties, forfeitures, heriots, mortuaries and reliefs, not only to the let or hinderance of the due course and execution of law and justice, but also to the overthrow of all true and plain dealing, bargaining and chevisance between man and man, without the which no commonwealth or civil society can be maintained or continued.

II. Be it therefore enacted, that all and every feoffment, gift, grant, alienation, bargain and conveyance of lands, tenements, hereditaments, goods and chattles, or of any of them, or of any lease, rent, commons or other profit or charge out of the same lands, tenements, hereditaments, goods and chattles, or any of them, by writing or otherwise; (2) and all and every bond, suit, judgment and execution, at any time had or made sithence the beginning of the Queen's majesty's reign that now is, or at any time hereafter to be had or made, (3) to or for any intent or purpose before declared and expressed, shall be from henceforth deemed and taken (only as against that person or persons, his or their heirs, successors, executors, administrators and assigns, and every of them, whose actions, suits, debts, accounts, damages, penalties, forfeitures, heriots, mortuaries and reliefs, by such guileful, covinous or fraudulent devices and practices, as is aforesaid, are, shall or might be in any ways disturbed, hindered, delayed or defrauded) to be clearly and utterly void, frustrate and of none effect; any pretence, colour, feigned consideration, expressing of use, or any other matter or thing to the contrary notwithstanding.

Via. V. 13—533.

III. And all and every the parties to such feigned, covinous or fraudulent feoffment, gift, grant, alienation, bargain, conveyance, bonds, suits, judgments, executions, and other things before expressed, and being privy and knowing of the same, or any of them; (2) which at any time after the 10th day of June next coming, shall wittingly and willingly put in ure, avow, maintain, justify or defend the same, or any of them, as true, simple, and done, had or made *bona fide* and upon good consideration; (3) or shall alien or assign any the lands, tenements, goods, leases or other things before mentioned, to him or them conveyed as is aforesaid, or any part thereof; (4) shall incur the penalty and forfeiture of 1 year's value of the said lands, tenements and hereditaments, leases, rents, commons or other profits, of or out of the same; (5) and the whole value of the said goods and chattles; (6) and also so much money as are or shall be contained in any such covinous and feigned bond; (7) the one moiety whereof to be to the Queen's majesty, her heirs and successors, and the other moiety to the party or parties grieved by such feigned and fraudulent feoffment, gift, grant, alienation, bargain, conveyance, bonds, suits, judgments, executions, leases, rents, commons, profits, charges and other things aforesaid, to be recovered in any of the Queen's courts of record by action of debt, bill, plaint or information, wherein no essoin, protection or wager of law shall be admitted for the defendant or defendants; (8) and also being thereof lawfully convicted, shall suffer imprisonment for one half year without bail or mainprize.

A. D. 1712.

English Statutes Made of Force.

Common recoveries against the tenants of freehold.

IV. Provided always, that whereas sundry common recoveries of lands, tenements and hereditaments have heretofore been had, and hereafter may be had against tenant in tail, or other tenant of the freehold the reversion or remainder, or the right of reversion or remainder, then being in any other person or persons; (2) that every such common recovery heretofore had, and hereafter to be had, of any lands, tenements or hereditaments, shall, as touching such person and persons which then had any remainder or reversion, or right of remainder or reversion, and against the heirs of every of them, stand, remain and be of such like force and effect, and of none other, as the same should have been if this Act had never been had ne made.

Making an estate whereby a voucher may be used in Formedon.

V. Provided always, that this Act, or any thing therein contained, shall not extend to make void any estate or conveyance, by reason whereof any person or persons shall use any voucher in any writ of *Formedon*, now depending or hereafter to be depending, but that all and every such vouchers in any writ of *Formedon* shall stand and be in like force and effect, as if this Act had never been had ne made; any thing before in this Act contained to the contrary notwithstanding.

Estates made upon good consideration, and bona fide. For farther provision against fraudulent conveyances, see 29 Car. 2. c. 3. and 3 W. & M. c. 14.

VI. Provided also, that this Act, or any thing therein contained, shall not extend to any estate or interest in lands, tenements, hereditaments, leases, rents, commons, profits, goods or chattles, had, made, conveyed or assured, or hereafter to be had, made, conveyed or assured, which estate or interest is or shall be upon good consideration and *bona fide* lawfully conveyed or assured to any person or persons, or bodies politic or corporate, not having at the time of such conveyance or assurance to them made, any manner of notice or knowledge of such covin, fraud or collusion as is aforesaid; any thing before mentioned to the contrary hereof notwithstanding.

A. D. 1576.
18 Eliz. c. 7.

An Act to take away Clergy from the offenders in Rape or Burglary, and an order for the delivery of Clerks convict without purgation.

3 Inst. 65, 214.
Hob. 291.
13 Ed. 1. stat. 1. c. 34.
None shall have clergy that committeth rape or burglary.
11 Co. 33.
Farther concerning burglary, see 3 W. & M. c. 9.
& A. A. August 23, 1769.

FOR the repressing of the most wicked and felonious rapes or ravishments of women, maids, wives and damosels, and of felonious burglaries, and for the avoiding of sundry perjuries and other abuses, in and about the purgation of clerks convict delivered to the ordinaries, (2) be it enacted, that if any person or persons shall fortune at any time after the 1st day of June now next ensuing, to commit or do any manner of felonious rape, ravishment, or burglary, and to be found guilty by verdict, of any felonious rape or burglary, (3) or that any person or persons shall fortune to be outlawed for any the offences aforesaid, (4) or upon his or their arraignment shall confess any such felonious rape or burglary; (5) that in every such case, every person and persons so being found guilty, outlawed or confessing any of the said felonious rapes or burglaries, shall suffer pains of death, and forfeit as in cases of felony hath been used and accustomed by the common laws of this realm, without any allowance of the privilege or benefit of clergy; any law, custom, or usage heretofore had, made or used to the contrary notwithstanding.

No man allowed his clergy, shall be committed to the Ordinary, but presently

II. And moreover, every person and persons, which at any time after the end of this present session of parliament, shall be admitted and allowed to have the benefit or privilege of his or their clergy, shall not thereupon be delivered to the ordinary as hath been accustomed, but after such clergy allowed, and burning in the hand, according to the statute in that behalf provided, shall forthwith be enlarged and delivered out of prison by the

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A. D. 1719.

justices before whom such clergy shall be granted, that cause notwithstanding delivered. 4 H. 7. c. 13.

III. Provided nevertheless, that the justices before whom any such allowance of clergy shall be had, shall and may for the further correction of such persons to whom such clergy shall be allowed, detain and keep them in prison for such convenient time as the same justices in their discretions shall think convenient, so as the same do not exceed one year's imprisonment; any law or usage heretofore had or used to the contrary in any wise notwithstanding. The justices may retain offenders in prison for a time. 5 Co. 110. Cro. Jac. 430. 2 Bulstr. 127.

IV. And for plain declaration of law, be it enacted, that if any person shall unlawfully and carnally know and abuse any woman child under the age of 10 years, every such unlawful and carnal knowledge shall be felony, and the offender thereof being duly convicted, shall suffer as a felon without allowance of clergy. To know a woman carnally under the age of 10 years shall be felony.

V. Provided always, that all and every person and persons, which shall hereafter be admitted to have the benefit of his or their clergy, shall notwithstanding his or their admission to the same, be put to answer to all other felonies whereof he or they shall be hereafter indicted or appealed, and not being thereof before acquitted, convicted, attainted or pardoned, (2) and shall in such manner and form be arraigned, tried, adjudged, and suffer such execution for the same, as he or they should have done, if, as clerk or clerks convict, they had been delivered to the ordinary, and there had made his or their purgations, any thing in this Act contained to the contrary notwithstanding. He that is allowed his clergy shall answer to other felonies. 8 El. c. 4. Dyer 214. pl. 48.

An Act against Covinous and fraudulent Conveyances.

A. D. 1585.
27 Eliz. c. 4.

FORASMUCH as not only the Queen's most excellent majesty, but also divers of her highness good and loving subjects, and bodies politic and corporate, after conveyances obtained, or to be obtained, and purchases made or to be made, of lands, tenements, leases, estates and hereditaments, for money or other good considerations, may have, incur and receive great loss and prejudice by reason of fraudulent and covinous conveyances, estates, gifts, grants, charges and limitations of uses heretofore made or hereafter to be made, of, in or out of lands, tenements or hereditaments so purchased or to be purchased; (2) which said gifts, grants, charges, estates, uses and conveyances were, or hereafter shall be, meant and intended by the parties that so make the same to be fraudulent and covinous, of purpose and intent to deceive such as have purchased or shall purchase the same; (3) or else by the secret intent of the parties the same to be to their own proper use, and at their free disposition; (4) coloured nevertheless by a fained countenance and shew of words and sentences, as though the same were made *bona fide*, for good causes, and upon just and lawful considerations;

II. For remedy of which inconveniences, and for the avoiding of such fraudulent, fained and covinous conveyances, gifts, grants, charges, uses and estates, and for the maintenance of upright and just dealing in the purchasing of lands, tenements and hereditaments; (2) be it enacted, that all and every conveyance, grant, charge, lease, estate, incumbrance and limitation of use or uses, of, in or out of any lands, tenements or other hereditaments whatsoever, had or made any time heretofore sithence the beginning of the Queen's majesty's reign that now is, or at any time hereafter to be had or made, for the intent and of purpose to defraud and Fraudulent conveyances made to deceive purchasers shall be void. 3 H. 7. c. 4. Fraudulent conveyances made to deceive purchasers shall be void. Moor. 602. pl. 833, 615. pl. 843. Roll. 167.

A. D 1712.

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Lane 47.
Bridgm. 22.
Goldsb. 8 pl.
11.
3 Co. 80. 5 Co.
60. 6 Co. 72.
11 Co. 74.
Cro. Jac. 163.
Hob. 166.
Vin. V. 13-526.
Cok. Entr. 677.
Cro. El. 44.

deceive such person or persons, bodies politic or corporate, as have purchased or shall afterwards purchase in fee-simple, fee-tail, for life, lives or years, the same lands, tenements and hereditaments, or any part or parcel thereof, so formerly conveyed, granted, leased, charged, incumbered or limited in use; (3) or to defraud and deceive such as have or shall purchase any rent, profit or commodity in or out of the same, or any part thereof; [4] shall be deemed and taken only as against that person and persons, bodies politic and corporate, his and their heirs, successors, executors, administrators and assigns, and against all and every other person and persons lawfully having or claiming by, from or under them, or any of them, which have purchased or shall hereafter so purchase for money or other good consideration, the same lands, tenements or hereditaments, or any part or parcel thereof, or any rent, profit or commodity in or out of the same, to be utterly void, frustrate, and of none effect; [5] any pretence, colour, fained consideration, or expressing of any use or uses, to the contrary notwithstanding.

The penalty of
the parties to
fraudulent
conveyances,
who do avow
the same.

III. All and every the parties to such fained, covinous and fraudulent gifts, grants, leases, charges or conveyances before expressed, or being privy and knowing of the same or any of them, which after the 20th day of April next coming shall wittingly or willingly put in ure, avow, maintain, justify or defend the same or any of them, as true, simple and done, had or made, *bona fide*, or upon good consideration, to the disturbance or hinderance of the said purchaser or purchasers, lessees or grantees, or of or to the disturbance or hinderance of their heirs, successors, executors, administrators or assigns, or such as have or shall lawfully claim any thing by, from or under them, or any of them, shall incur the penalty and forfeiture of one year's value of the said lands, tenements and hereditaments so purchased or charged; [2] the one moiety whereof to be to the Queen's majesty, her heirs and successors, and the other moiety to the party or parties grieved by such fained and fraudulent gift, grant, lease, conveyance, incumbrance or limitation of use, to be recovered in any of the Queen's courts of record, by action of debt, bill, plaint or information, wherein no essoin, protection or wager of law shall be admitted for the defendant or defendants; [3] and also being thereof lawfully convicted, shall suffer imprisonment for one half year without bail or mainprise.

Conveyances
made upon
good considera-
tions, and *bona*
fide.
Goldsb. 118. pl.
2.
2 Roll. 305.
3 Co. 83.

IV. Provided, that this 'Act or any thing therein contained shall not extend or be construed to impeach, defeat, make void or frustrate any conveyance, assignment of lease, assurance, grant, charge, lease, estate, interest, or limitation of use or uses, of, in, to or out of any lands, tenements or hereditaments heretofore at any time had or made, or hereafter to be had or made, upon or for good consideration and *bona fide*, to any person or persons, bodies politic or corporate; any thing before mentioned to the contrary hereof notwithstanding.

Lands first
conveyed with
condition of
revocation, or
alteration, and
after sold for
money or other
good considera-
tion
Cro Jac. 140

V. If any person or persons have heretofore made, or hereafter shall make any conveyance, gift, grant, demise, charge, limitation of use or uses, or assurance of, in or out of any lands, tenements or hereditaments, with any clause, provision, article or condition of revocation, determination or alteration, at his or their will or pleasure, of such conveyance, assurance, grants, limitations of uses or estates of, in or out of the said lands, tenements or hereditaments, or of, in or out of any part or parcel of them, contained or mentioned in any writing, deed or indenture of such assurance, conveyance, grant or gift; [2] and after such conveyance, grant, gift, demise, charge, limitation of uses or assurance so made or had,

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shall or do bargain, sell, demise, grant, convey or charge, the same lands, tenements or hereditaments, or any part or parcel thereof, to any person or persons, bodies politic and corporate, for money or other good consideration paid or given (the said 1st conveyance, assurance, gift, grant, demise, charge or limitation, not by him or them revoked, made void or altered, according to the power and authority reserved or expressed unto him or them in or by the said secret conveyance, assurance, gift, or grant;) [3] that then the said former conveyance, assurance, gift, demise and grant, as touching the said lands, tenements and hereditaments, so after bargained, sold, conveyed, demised or charged, against the said bargainees, vendees, lessees, grantees, and every of them, their heirs, successors, executors, administrators and assigns, and against all and every person and persons which have, shall or may lawfully claim any thing, by, from or under them or any of them, shall be deemed, taken and adjudged to be void, frustrate, and of none effect, by virtue and force of this present Act.

VI. Provided nevertheless, that no lawful mortgage made or to be made *bona fide*, and without fraud or covin, upon good consideration, shall be impeached or impaired by force of this Act, but shall stand in the like force and effect as the same should have done if this Act had never been had nor made; any thing in this Act to the contrary in any wise notwithstanding.

*An Act for the following of Hue and Cry.**

27 Eliz. c. 13.

WHEREAS by 2 ancient statutes, the 1 made in the parliament holden at Winchester in the 13th year of the reign of King Edward the 1st, and the other in the 28th year of the reign of King Edward the 3d, it was, for the better repressing of robberies and felonies (amongst other things) enacted to this effect, that if the country do not answer for the bodies of such malefactors, that then the pain should be such, that is to wit, that the people dwelling in the country shall be answerable for the robberies done, and the damages, [2] so that the whole hundred where the robbery shall be done, with the franchises which are within the precinct of the same hundred, shall answer the robberies done; [3] and if the robbery chance to be done in the division of two hundreds, that then both the hundreds together, with the franchises within the precinct of them, shall be answerable, as in the said 2 several statutes it doth more at large appear.

II. Forasmuch as the said parts of the said several statutes being of late days more commonly put in execution, than heretofore they have been, are found by experience to be very hard and extreme to many of the Queen's majesty's good subjects, because by the same statutes they do remain charged with the penalties therein contained, notwithstanding their inability to satisfy the same, and though they do as much as in reason might be required in pursuing such malefactors and offenders, [2] whereby both a large scope of negligence is given to the inhabitants and residents in other hundreds and counties, not to prosecute the hue and cry made, followed, and brought unto them, by reason they are not chargeable for any portion of the goods robbed, nor with any damages in that behalf given; [3] and also great encouragement and emboldening is likewise given unto the offenders, to commit daily more felonies and robberies, as seeing it in manner impossible for the inhabitants and residents of the said hundred and franchises wherein the robbery is committed, to apprehend them without

*Q. How is this applicable? And how to be executed in this State?

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27 Eliz. c. 13.
2 Haw. P. C.
p. 75
Bac. V. 3, p. 65.
Hob. 246.

Inhabitants of
the Hundred
where fresh
suit shall not be
made, shall
answer half
damages.

The moiety
shall be recover-
ed by the
Clerk of the
Peace.

the aid of the other hundreds and counties adjoining; [4] and for that also the party robbed having remedy by the aforesaid statutes for the recovering of his goods robbed and damages against the inhabitants and residents of the hundred wherein the robbery was committed, is many times negligent and careless in prosecuting and pursuing the said malefactors and offenders: (5) Our sovereign lady, the Queen's majesty, not willing therefore that her people should be impoverished by any such pain or penalty which should be hard or grievous to them, and having special regard to abate the power of felons, and to repress felonies, (6) doth for remedy hereof, that the inhabitants and residents of every or any such hundred (with the franchises within the precinct therefore) wherein negligence, fault or defect of pursuit and fresh suit, after hue and cry made, shall happen to be, from and after forty days next after the end of this present session of parliament, shall answer and satisfy the one moiety or half of all and every such sum and sums of money and damages, as shall by force or virtue of the said statutes or either of them be recovered or had against or of the said Hundred, with the franchise therein, in which any robbery or felony shall at any time hereafter be committed or done: [7] And that the same moiety shall and may be recovered by action of debt, bill, plaint, or information, in any of the Queen's Majesty's courts of record at Westminster, by and in the name of the Clerk of the Peace for the time being, of or in every such county within this realm, where any such robbery and recovery by the party or parties robbed shall be, without naming the christian name or surname of the said Clerk of the Peace; [8] which moiety so recovered shall be to the only use and behoof of the inhabitants of the said Hundred where any such robbery or felony shall be committed or done.

The death or
removing of the
Clerk of the
Peace shall not
cease the suit.

III. If any Clerk of the Peace, of or in any county within this realm, shall at any time hereafter commence or prefer any such suit, action or information, and shall after the same so sued, commenced or preferred, happen to die or to be removed out of his office, before recovery and execution had; That yet no such action, suit, bill, plaint or information, sued, commenced or preferred, shall by such displacing or death be abated, discontinued or ended; (2) but that it shall and may be lawful to and for the Clerk of the Peace next succeeding in the said county, to prosecute, pursue and follow all and every such action, bill, plaint, suit and information, for the causes aforesaid, so hanging and depending, in such manner and form, and to all intents and purposes, as that Clerk of the Peace might have done which first commenced or preferred the said suit, bill, plaint, or information.

IV. And although the whole Hundred, where such robberies and felonies are committed, with the Liberties within the precinct thereof, are by the said two former statutes charged with the answering to the party robbed his damages, yet nevertheless the recovery and execution by and for the party or parties robbed, is had against one or a very few persons of the said inhabitants, and he and they so charged, have not heretofore by law had any mean or way to have any contribution of or from the residue of the said Hundred where the said robbery is committed, to the great impoverishment of them against whom such recovery or execution is had.

A remedy for
those against
whom recovery

V. For remedy whereof, Be it enacted, That after execution of damages by the party or parties so robbed had, it shall and may be lawful (upon complaint made by the party or parties so charged) to and for 2 Justices

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of the Peace (whereof 1 to be of the Quorum) of the same county inhabiting within the said Hundred, or near unto the same, where any such execution shall be had, to assess and tax rateably and proportionably, according to their discretions, all and every the towns, parishes, villages and hamlets, as well of the said Hundred where any such robbery shall be committed, as of the Liberties within the said Hundred, to and towards an equal contribution to be had and made for the relief of the said inhabitant or inhabitants, against whom the party or parties robbed before that time had his or their execution; (2) And that after such taxation made, the constables, constable, headboroughs or headborough of every such town, parish, village and hamlet, shall by virtue of this present Act have full power and authority within their several limits, rateably and proportionably to tax and assess according to their abilities, every inhabitant and dweller in every such town, parish, village and hamlet, for and towards the payment of such taxation and assessment, as shall be so made upon every such town, parish, village and hamlet as aforesaid, by the said Justices: (3) And that if any inhabitant of any such town, parish, village or hamlet, shall obstinately refuse and deny to pay the said taxation and assessment so by the said constables, constable, headboroughs or headborough taxed and assessed, That then it shall and may be lawful to and for the said constables and headboroughs, and every of them, within their several limits and jurisdictions, to distrain all and every person and persons so refusing and denying, by his and their goods and chattles; (4) and the same distress to sell, and the money thereof coming to retain to the use aforesaid; and if the goods or chattles so distrained and sold shall be of more value than the said taxation shall come unto, that then the residue of the said money, over and above the said taxation, shall be delivered unto the said person or persons so distrained.

and execution
is had, to have
contribution.

The taxation of
the towns by
the Justices.

Taxation of the
inhabitants by
the constables.

Distraining and
sale of Distress
for default of
payment.

VI. And all and every the said constables and headboroughs, after that they have within their several limits and jurisdictions levied and collected their said rates and sums of money so taxed, shall within ten days after such collection, pay and deliver the same over unto the said Justices of the Peace or one of them, to the use and behoof of the said inhabitant or inhabitants for whom such rate, taxation and assessment shall be made and had as aforesaid; [2] which money so paid shall by the justices or justice so receiving the same, be delivered over (upon request made) unto the said inhabitant or inhabitants to whose use the same was collected.

Constables
shall deliver
the money
collected to
the Justices.

VII. And the like taxation, assessment, levying by distress and payment as aforesaid, shall be had and done within every hundred where default or negligence of pursuit and fresh suit shall be, for and to the benefit of all and every inhabitant and inhabitants of the same hundred where such default shall be, that shall at any time hereafter by virtue of this present be. Act have any damages of money levied of them, for or to the payment of the one moiety or half of the money recovered against the said hundred where any robbery shall be hereafter committed.

Levying of the
contribution in
the Hundred
where default
of pursuit shall
be.

VIII. Provided, That where any robbery is or shall be hereafter committed by two or a greater number of malefactors, and that it happen any one of the said offenders to be apprehended by pursuit to be made according to the said former mentioned laws and statutes, or according to this present Act, that then and in such case, no hundred or franchise shall in any wise incur or fall into the penalty, loss or forfeiture mentioned either in this present Act or in any the said former statutes, although the residue of the said malefactors shall happen to

No penalty
where any of
the offenders
be taken.
March 10, 11.
Sid. 11.

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The suit shall be commenced within one year after the robbery.

In what sort Hue and Cry and pursuit of felons shall be made.
Dyer 370.

The party robbed shall give notice thereof to the inhabitants of some town, &c.

Cro. Jac. 673.
3 Mod 287.
The party robbed examined before a Justice whether he knew any of the offenders.
Cok. Entr. 348.
Rast. 406.
Cro. El. 142.
Cro. Car. 26, 37.
2 Salk. 614.
Clift. Ent. 378.

escape, and not to be apprehended; any thing in this statute or in the said former statutes to the contrary notwithstanding.

IX. Provided also, That no person or persons hereafter robbed shall take any benefit by virtue of any the said former statutes, to charge any hundred where any such robbery shall be committed, except he or they so robbed shall commence his or their suit or action within 1 year next after such robbery so to be committed.

X. No hue and cry, or pursuit hereafter to be done or made by the country, or inhabitants of any hundred, shall be allowed and taken to be a lawful hue and cry or pursuit upon or after any the said felons or offenders, except the same hue and cry or pursuit be done and made by horsemen and footmen; any usage or custom to the contrary notwithstanding.

XI. No person or persons that shall hereafter happen to be robbed, shall have or maintain any action, or take any benefit by virtue of the said two mentioned statutes or either of them, except the same person and persons so robbed shall with as much convenient speed as may be, give notice and intelligence of the said felony or robbery so committed, unto some of the inhabitants of some town, village or hamlet, near unto the place where any such robbery shall be committed; [2] nor shall bring or have any action upon and by virtue of any the statutes aforesaid, except he or they shall first within twenty days next before such action to be brought be examined upon his or their corporal oath, to be taken before some one Justice of the Peace of the county where the robbery was committed, inhabiting within the said hundred where the robbery was committed, or near unto the same, whether he or they do know the parties that committed the said robbery, or any of them: [3] And if upon such examination it be confessed that he or they do know the parties that committed the said robbery, or any of them, that then he or they so confessing shall before the said action be commenced or brought, enter into sufficient bond by recognizance before the said Justice before whom the said examination is had, effectually to prosecute the same person and persons so known to have committed the said robbery, by indictment, or otherwise, according to the due course of the laws of this realm.

A. D. 1587.
29 Eliz. c. 4.

An Act to prevent Extortion in Sheriffs, Under-Sheriffs and Bailiffs of Franchises or Liberties, in Cases of Execution.

(See A. A. called Fee Act.)

Palmer 400, 401.
Poph. 175.
1 Roll. 404.
Latch. 17, 54.
Noy 27.

How much the Sheriff may take for the serving of an Execution.
Moor 853. pl. 1166.
2 Mod. 240.

BE it enacted, That it shall not be lawful, from the 1st day of May now next ensuing, to or for any sheriff, under-sheriff, bailiff of franchises or liberties, nor for any of their or either of their officers, ministers, servants, bailiffs or deputies, nor for any of them, by reason or colour of their or either of their office or offices, to have, receive or take of any person or persons whatsoever, directly or indirectly, for the serving and executing of any extent or execution upon the body, lands, goods or chattles of any person or persons whatsoever, more or other consideration or recompence, than in this present Act is and shall be limited and appointed, (2) which shall be lawful to be had, received and taken, that is to say, 12d. of and for every 20s. where the sum exceedeth not £100, and 6d.

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of and for every 20s. being over and above the said sum of £100, that he 1 Salk 331, 332.
 or they shall so levy or extend, and deliver in execution, or take the body Moor 468.
 in execution for, by virtue of any such extent or execution what- Cro. El. 335, 654.
 soever, (3) upon pain and penalty that all and every sheriff, under-sheriff, Cro. Jac. 103.
 bailiff of franchises and liberties, their and every of their ministers, serv- Cro. Car. 237.
 ants, officers, bailiffs or deputies, which at any time after the said 1st day
 of May now next ensuing, shall directly or indirectly do the contrary, shall
 lose and forfeit to the party grieved his treble damages, (4) and shall for- The forfeiture
 feit the sum of £10, of good and lawful English money, for every time of the offender,
 that he, they, or any of them, shall do the contrary; the one moiety thereof and how it shall
 to be to our Sovereign Lady the Queen, her heirs and successors. and the be recovered.
 other moiety thereof to the party or parties that will sue for the same, by
 any plaint, action, suit, bill or information, wherein no essoin, wager of
 law or protection shall be allowed.

II. Provided always, That this Act, or any thing therein contained, Fees for Execu-
 shall not extend to any fees to be taken or had for any execution within tions within
 any city or town corporate; any thing above mentioned to the contrary cities or towns
 thereof notwithstanding. corporate.

*An Act that no Person robbing any House in the Day-Time, although no A. D. 1597.
 Person be therein, shall be admitted to have the Benefit of his Clergy.* 39 Eliz. c. 15.

WHEREAS, of late years, divers lewd and felonious persons, under- 3 Inst. 65.
 standing that the penalty of the robbing of houses in the day-time (no 25 H. 8, c. 3.
 person being in the house at the time of the robbery) is not so penal, as to 18 El. c. 7.
 commit or do a robbery in any house, any person being therein at the time
 of the robbery; which hath and doth embolden divers lewd persons to
 watch their opportunity and time to commit and do many heinous robber-
 ies, in breaking and entering divers honest persons houses, and especially
 of the poorer sort of people, who by reason of their poverty are not able 2 Haw. P. C.
 to keep any servant, or otherwise to leave any body to look to their house, c. 33.
 when they go abroad to hear divine service, or from home to follow their
 labour to get their living, which is to the hinderance and loss of good sub-
 jects, and the utter impoverishing of many poor widows, sole women and
 other people.

II. Be it therefore enacted, That if any person or persons after the end
 of this present session of parliament, shall be found guilty, and convicted He shall not
 by verdict, confession or otherwise, according to the laws of this realm, have his clergy
 for the felonious taking away, after the Feast of Easter now next ensuing, that robbeth a
 in the day-time, of any money, goods or chattel, being of the value of 5s. house in the
 or upwards, in any dwelling-house or houses, or any part thereof, or any day-time of the
 out-house or out-houses belonging and used to and with any dwelling- value of 5s.
 house or houses, although no person shall be in the said house or out- Kelyng 21.
 houses at the time of such felony committed; then such person and persons 4 Co. 40.
 shall not be admitted to the benefit of his or their clergy, but shall be Cro. Car. 473.
 utterly excluded thereof. Further provis-
 ions relating
 hereto, 3 W. &
 M. c. 9, & A. A.
 23 Aug. 1769.

*An Act to prevent Perjury, and Subornation of Perjury, and unnecessary A. D. 1601.
 Expences in Suits of Law.* 43 Eliz. c. 5.

WHEREAS, within divers cities and towns corporate, and other places
 within this realm of England, and the dominions thereof, there are juris-
 dictions, customs and privileges to hold plea in actions of debt, and other

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English Statutes Made of Force.

At what time a writ to remove a suit depending in an inferior court shall be delivered to the judge or officer of the same court.
1 Haw. P. C. c. 69.

actions, plaints and suits between party and party, and divers of her Majesty's subjects do daily commence many actions, plaints and suits in the said cities, towns corporate and places, according to the jurisdictions, customs and privileges of the said places; (2) and many defendants in actions, plaints and suits there brought and commenced, will suffer the said actions, plaints and suits to be proceeded in and prosecuted there, until the cause between the plaintiffs and them be at issue, and the jury sworn, and evidence given on the plaintiffs part, before the said defendant will deliver into the court where the said actions, plaints or suits are to be tried, writs formerly sued forth by them, to remove the cause there depending, into some one or other of her Majesty's courts of record at Westminster; (3) which keeping back of the said writ, is done by the defendant, to no other purpose or intent, but to put the parties plaintiffs to as great charges and expences as they the said defendants can, and to know what proofs the parties plaintiffs can make for the proving their issue, whereby the defendants that sued forth the said writs, may have longer time to furnish themselves with some false witnesses, to impugn those proofs which the plaintiffs have openly made by their witnesses and proofs, which is a great cause of perjury and subornation of perjury, and great expence to the plaintiffs:

II. For remedy whereof, be it enacted, That from and after the end of this present session of parliament, no writ or writs of *Habeas Corpus*, or any other writ or writs sued forth, or to be sued forth, by any person or persons whatsoever, out of any of her Majesty's courts of record at Westminster, to remove any action, suit, plaint or cause, depending or to be depending, in any court or courts within any city or town corporate, or elsewhere, which have or shall have jurisdiction, power or authority to hold plea in any action, plaint or suit, shall be received or allowed by the judge or judges, or officer or officers of the court or courts wherein or to whom any such writ or writs shall be delivered, (but that he and they shall and may proceed in the said cause and causes ready to be tried, as though no such writ or writs were sued forth or delivered to him or them,) except that the said writ or writs be delivered to the judge or judges, officer or officers, of the said court, before that the jury which is to try the cause in question between the party or parties plaintiffs, and the party or parties that sued forth the said writ or writs, or for whose benefit the said writ or writs is or shall be sued forth, have appeared, and one of the said jury sworn to try the said cause.

49 Eliz. c. 8.

An Act against Fraudulent Administration of Intestates Goods.

Fraud practised in taking of administrations to deceive others of their lawful debts.
31 Ed. 3, c. 11.

FORASMUCH as it is often put in ure, to the defrauding of creditors, that such persons as are to have the administration of the goods of others dying intestate committed unto them, if they require it, will not accept the same, but suffer or procure the administration to be granted to some stranger of mean estate, and not of kin to the intestate, from whom themselves or others by their means do take deeds of gifts and authorities by letter of attorney, whereby they obtain the estate of the intestate into their hands, and yet stand not subject to pay any debts owing by the same intestate, and so the creditors for lack of knowledge of the place of habitation of the administrator, cannot arrest him nor sue him; and if they fortune to find him out, yet for lack of ability in him to satisfy of his own goods, the value of that he hath conveyed away of the intestate's goods, or released of his

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debts by way of wasting, the creditors cannot have or recover their just and due debts :

II. Be it enacted, That every person and persons that hereafter shall obtain, receive and have any goods or debts of any person dying intestate, or a release or other discharge of any debt or duty that belonged to the intestate, upon any fraud, as is aforesaid, or without such valuable consideration as shall amount to the value of the same goods or debts, or near thereabouts, (except it be in or towards satisfaction of some just and principal debt of the value of the same goods or debts to him owing by the intestate at the time of his decease) shall be charged and chargeable as executor of his own wrong; [2] and so far only as all such goods and debts coming to his hands, or whereof he is released or discharged by such administrator, will satisfy, deducting nevertheless to and for himself allowance of all just, due and principal debts upon good consideration, without fraud, owing to him by the intestate at the time of his decease, and of all other payments made by him, which lawful executors or administrators may and ought to have and pay by the laws and statutes of this realm.

By fraudulent administration of Intestates goods, the party shall be charged as executor of his own wrong.

Allowance of just debts, and other lawful payments. Further provisions respecting administration, see 23 & 23 Car. 2, c. 10. 1 Jac. 2, c. 17.

An Act to take away the Benefit of Clergy for some kind of Manslaughter.

A. D. 1804.
13. 1 c. 8.

TO the end that stabbing and killing men on the sudden, done and committed by many inhumane and wicked persons, in the time of their rage, drunkenness, hidden displeasure, or other passion of mind, contrary to the commandment of Almighty God, and the common peace and tranquillity of this realm, may from henceforth be restrained through fear of due punishment to be inflicted on such cruel and bloody malefactors, who heretofore have been thereunto emboldened by presuming on the benefit of clergy :

Clergy taken from him that doth stab another having not a weapon drawn. 1 Bulstr. 87. Godbolt. 154, pl. 204.

II. Be it therefore enacted, That every person and persons which after one month next ensuing the end of this present session of parliament, shall stab or thrust any person or persons that hath not then any weapon drawn, or that hath not then first stricken the party which shall so stab or thrust, so as the person or persons so stabbed or thrust shall thereof die within the space of six months then next following, although it cannot be proved that the same was done of malice forethought, yet the party so offending and being thereof convicted by verdict of twelve men, confession or otherwise, according to the laws of this realm, shall be excluded from the benefit of his or their clergy, and suffer death as in case of wilful murder.

Stille 86, 468. 1 Hales P. C. 466. Foster's Rep. of Crown Cases. Allen 43, 44.

III. Provided always, That this Act or any thing therein contained, shall not extend to any person or persons which shall kill any person or persons *se defendendo*, or by misfortune, or in any other manner than as aforesaid; [2] nor shall extend to any person or persons which in keeping and preserving the peace shall chance to commit manslaughter, so as the said manslaughter be not committed wittingly, willingly and of purpose, under pretext and colour of keeping the peace; [3] nor shall extend to any person or persons which in chastising or correcting his child or servant, shall besides his or their intent and purpose chance to commit manslaughter.

Killing another in defence of himself, by misfortune, in preserving the peace, or giving correction.

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1 J. 1. c. 11. *An Act to restrain all Persons from Marriage until their former Wives and former Husbands be dead.*

FORASMUCH as divers evil-disposed persons being married, run out of one county into another, or into places where they are not known, and there become to be married, having another husband or wife living, to the great dishonor of God, and utter undoing of divers honest mens children, and others; [2] Be it therefore enacted, That if any person or persons within his Majesty's dominions of England and Wales, being married, or which hereafter shall marry, do at any time after the end of the session of this present parliament, marry any person or persons, the former husband or wife being alive; that then every such offence shall be felony, and the person and persons so offending shall suffer death as in cases of felony; [3] and the party and parties so offending shall receive such and the like proceeding, trial and execution in such county where such person or persons shall be apprehended, as if the offence had been committed in such county where such person or persons shall be taken or apprehended.

II. Provided always, That this Act, nor any therein contained, shall extend to any person or persons whose husband or wife shall be continually remaining beyond the seas by the space of 7 years together, or whose husband or wife shall absent him or herself the one from the other by the space of 7 years together, in any parts within his Majesty's dominions, the one of them not knowing the other to be living within that time.

III. Provided also, That this Act, nor any thing herein contained, shall extend to any person or persons that are or shall be at the time of such marriage divorced by any sentence had or hereafter to be had in the ecclesiastical court; [2] or to any person or persons where the former marriage hath been or hereafter shall be by sentence in the ecclesiastical court declared to be void and of no effect; nor to any person or persons for or by reason of any former marriage had or made, or hereafter to be had or made, within age of consent.

IV. Provided also, That no attainder for this offence made felony by this Act, shall make or work any corruption of blood, loss of dower, or disinherison of heir or heirs.

1 J. 1. c. 12. *An Acte against Conjuracion, Witchcraft, and dealinge with Evill and Wicked Spirits.*

BE it enacted, by the King our Sovraigne Lorde, the Lordes Spirituall and Temporall and the Comons in this present Parliament assembled, and by the authoritie of the same. That the statute made in the fifth yeire of the raigne of our late Sovraigne Lady, of most famous and happie memorie, Queene Elizabeth, intituled an Acte againste conjurations, enchantments and witchcrafts, be from the Feaste of St. Michaell the Archangell nexte cominge, for and concerninge all offences to be comitted after the same Feaste, utterlie repealed.

II. And for the better restrayninge the said offenses and more severe punishinge the same, be it further enacted by the authoritie aforesaide, That if any person or persons, after the saide Feaste of St. Michaell the Archangell next cominge, shall use, practise or exercise any invocation or

Felony to marry a second husband or wife, the former being living.
3 Inst. 88.
Cro. Eliz. 94.
Cro. Car. 461.
March 101.
Kelyng. 79, 80.
1 Halsb. P.C. 692.

The husband or wife, being absent 7 years from the other.

To what persons this statute shall not extend.

No corruption of blood, loss of dower or inheritance.

5 Eliz. c. 16, repealed.

Invoking or consulting with evil spirits,

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conjuratiō of any evill and wicked spirit, or shall consult, covenante with, entertaine, employe, feede or rewarde any evill and wicked spirit, to or for any intent or purpose ; or take up any dead man, woman or child, out of his, her or their grave, or any other place where the dead bodie resteth, or the skin, bone, or any other parte of any dead person, to be employed or used in any manner of witchcrafte, sorcerie, charme or inchantment ; or shall use, practice or exercise any witchcrafte, inchantment, charme or sorcerie, whereby any person shall be killed, destroyed, wasted, consumed, pined or lamed in his or her bodie, or any part thereof ; that then everie such offender or offenders, their ayders, abettors and counsellors, being of any the said offences duly and lawfullie convicted and attainted, shall suffer pains of deathe, as a felon or felons, and shall loose the priviledge and benefit of clergie and sanctuarie.

taking up dead bodies, &c. for purposes of witchcraft, &c. or practising witchcraft, &c. to the harm of others, declared felony without benefit of clergy.

III. And farther, to the intent that all manner of practise, use or exercise of witchcrafte, inchantment, charme or sorcerie, should be from henceforth utterlie avoyded, abolished and taken away, be it enacted by the authority of this present parliament, That if any person or persons shall from and after the saide Feaste of St. Michaell the Archangell next cominge, take upon him or them, by witchcrafte, inchantment, charme or sorcerie, to tell or declare in what place any treasure of gold or silver should or might be founde or had in the earth or other secret places, or where goods or things lost or stollen should be found or become ; or to the intent to provoke any person to unlawfull love ; or wherebie any cattell or goods of any person shall be destroyed, wasted or impaired ; or to hurte or destroy any person in his or her bodie, although the same be not effected and done ; that then all and everie such person and persons so offending, and beinge thereof lawfullie convicted, shall for the said offence suffer imprisonment by the space of one whole yeare, without baile or mainprise, and once in everie quarter of the saide yeare, shall in some markett towne, upon the markett day, or at such tyme as any faire shall be kepte there, stand openlie upon the pillorie by the space of six houres, and there shall openlie confesse his or her error and offence ; and if any person or persons beinge once convicted of the same offences as is aforesaide, doe eftsoons perpetrate and commit the like offence, that then everie such offender being of any the saide offences the second tyme lawfullie and duellie convicted and attainted as is aforesaide, shall suffer pains of death as a felon or felons, and shall loose the benefit and priviledge of clergie and sanctuarie: Savinge to the wife of such person as shall offend in any thinge contrarie to this Act, her title of dower, and also to the heire and successour of everie such person his or their titles of inheritance, succession and other rights, as though no such attainder of the ancestor or predecessor had been made ; Provided alwaies, That if the offender in any the cases aforesaide shall happen to be a peer of this realme, then his triall therein to be had by his peers, as it is used in cases of felonie or treason, and not otherwise.

Penalty for declaring by witchcraft where treasure, &c. is hidden ; procuring unlawful love ; or attempting to hurt cattle or persons. First offence, imprisonment. Second offence felony without clergy.

Saving of dower, inheritance, &c.

Peers shall be tried by peers.

[The following Act is inserted to shew that the repeal of the Act of James 1, chap. 12, extends only to England and Scotland, and does not affect the validity of that Statute elsewhere.]

An Act to repeal the statute made in the first year of the reign of King James the First, intituled, An Act against conjuration, witchcraft. and dealing with evil and wicked spirits, except so much thereof as repeals an Act of

A. D 1736. 9 Geo. 2. c. 3.

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English Statutes Made of Force.

the fifth year of the reign of Queen Elizabeth, Against conjurations, inchantments and witchcrafts, and to repeal an Act passed in the parliament of Scotland in the ninth parliament of Queen Mary, intituled, Anentis witchcrafts, and for punishing such persons as pretend to exercise or use any kind of witchcraft, sorcery, inchantment, or conjuration.

BE it enacted by the King's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That the statute made in the first year of the reign of King James the First, intituled an Act against conjuration, witchcraft, and dealing with evil and wicked spirits, shall, from the twenty-fourth day of June next, be repealed and utterly void and of none effect, (except so much thereof as repeals the statute made in the fifth year of the reign of Queen Elizabeth, intituled an Act against conjurations, inchantments and witchcrafts.)

1 James 1. o. 12,
repealed,

except a clause
repealing
5 Eliz c. 16.

The Act in
Scotland, 9
Marie, also
repealed.

After June 24,
1736, no person
to be prosecuted
for witch-
craft, &c.

Persons pre-
tending to exer-
cise witchcraft,
tell fortunes, or
by crafty sci-
ence to discover
stolen goods, to
be imprisoned
for a year, to
be pilloried,
and bound for
good behavior.

II. And be it further enacted by the authority aforesaid, That from and after the said twenty-fourth day of June, the Act passed in the parliament of Scotland in the ninth parliament of Queen Mary, intituled, Anentis witchcrafts, shall be and is hereby repealed.

III. And be it further enacted, That from and after the said twenty-fourth day of June, no prosecution, suit or proceeding, shall be commenced or carried on against any person or persons for witchcraft, sorcery, inchantment, or conjuration, or for charging another with any such offence, in any court whatsoever in Great Britain.

IV. And for the more effectual preventing and punishing any pretences to such arts or powers as are before mentioned, whereby ignorant persons are frequently deluded and defrauded; be it further enacted by the authority aforesaid, That if any person shall, from and after the twenty-fourth day of June, pretend to exercise or use any kind of witchcraft, sorcery, inchantment, or conjuration, or undertake to tell fortunes, or pretend from his or her skill or knowledge in any occult or crafty science to discover where or in what manner any goods or chattles, supposed to have been stolen or lost, may be found; every person so offending, being thereof lawfully convicted on indictment or information in that part of Great Britain called England, or on indictment or libel in that part of Great Britain called Scotland, shall for every such offence suffer imprisonment by the space of one whole year without bail or mainprise, and once in every quarter of the said year in some market town of the proper county, upon the market day there, stand openly on the pillory by the space of one hour, and also shall (if the court by which such judgment shall be given shall think fit) be obliged to give sureties for his or her good behaviour, in such sum, and for such time, as the said court shall judge proper according to the circumstances of the offence, and in such case shall be further imprisoned until such sureties be given.

A. D. 1606.
4 J. 1. c. 3.

An Act to give Costs to the Defendant upon a Nonsuit of the Plaintiff, or Verdict against him.

Cases wherein
by the Statute
made 23 H. 8,
c. 15, the De-
fendant shall
recover the
costs,
Hutley 146.

WHEREAS, in the 23d year of the reign of King Henry the Eighth, of famous memory, a good and profitable law was made, whereby it was enacted, That in cases where the plaintiff in any action, bill or plaint of debt, trespass upon the case, detinue, account, and in some other actions therein especially mentioned, should become nonsuit, or a verdict should be had against the said plaintiff, that then in such cases the defendant

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should have judgment to recover his costs against every such plaintiff; as by the said law appeareth: [2] Which law hath been found to be very good and beneficial for the common wealth, and thereby many have been discouraged from bringing frivolous and unjust suits, because such parties are to make recompence to the parties unjustly vexed, for the said unjust vexations.

II. And forasmuch as actions of trespass, and actions of *Ejectione firmae*, and many other actions real and personal, are within the same mischief, as the said other actions were at the common law, and yet were omitted out of the provision of the said law: for remedy whereof, be it enacted, That if any person or persons at any time after the end of this present session of parliament, shall commence or sue in any court of record, or in any other court, any action, bill or plaint of trespass, or *Ejectione firmae*, or any other action whatsoever, wherein the plaintiff or demandant might have costs (if in case judgment should be given for him) and the plaintiff or plaintiffs, demandant or demandants, in any such action, bill or plaint, after appearance of the defendant or defendants, be nonsuited, or that any verdict happen to pass by any lawful trial against the plaintiff or plaintiffs, demandant or demandants, in any such action, bill, or plaint, shall have judgment to recover his costs against every such plaintiff and plaintiffs, demandant and demandants; [3] to be assessed, taxed and levied in manner and form as costs in the said recited actions are to be assessed, taxed and levied in and by the said law of the 23d year of King Henry the Eighth.

costs are given, see farther, 13 Car. 2. St. 2. c. 2. 4 Ann. c. 16.

1 Bulstr. 189.
2 Bulstr. 261.
3 Bulstr. 248.

Several cases wherein the defendant shall recover his costs against the plaintiff.

8 Elis. c. 2.
2 Roll 75, 87,
213.

Hob. 219.

Hutt. 16, 22.

March 24.

Coke Ent. 29.

Cro. Jac. 229.

Cro. Car. 29.

23 H. 8. c. 15.

In what cases

An Act to avoid the double payment of Debts.

A D. 1609.

(See 10th Section of County and Precinct Act, 20th September, 1721.)

7 J. 1. c. 12.

WHEREAS, divers men of trades, and handicraftsmen keeping shop books, do demand debts of their customers upon their shop-books long time after the same hath been due, and when as they have supposed the particulars and certainty of the wares delivered to be forgotten, then either they themselves or their servants have inserted into their said shop-books divers other wares supposed to be delivered to the same parties, or to their use, which in truth never were delivered, and this of purpose to increase by such undue means the said debt: (2) and whereas divers of the said tradesmen and handicraftsmen, having received all the just debt due upon their said shop-books, do oftentimes leave the same books uncrossed, or any way discharged, so as the debtors, their executors or administrators, are often by suit of law enforced to pay the same debts again to the party that trusted the said wares, or to his executors or administrators, unless he or they can produce sufficient proof by writing or witnesses, of the said payment, that may countervail the credit of the said shop-books, which few or none can do in any long time after the said payment: [3] be it therefore enacted, That no tradesman or handicraftsman keeping a shop-book as is aforesaid, his or their executors or administrators, shall after the Feast of St. Michael the Archangel next coming, be allowed, admitted or received to give his shop-book in evidence in any action for any money due for wares hereafter to be delivered, or for work hereafter to be done, above one year before the same action brought, except he or they, their executors or administrators, shall have obtained or gotten a bill of debt or obli-

In what case a tradesman's shop book shall be no evidence to recover a debt.

38 Ed. 3. stat. 1. c. 12.

2 Salk. 690.

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gation of the debtor for the said debt, or shall have brought or pursued against the said debtor, his executors or administrators, some action for the said debt, wares or work done, within one year next after the same wares delivered, money due for wares delivered, or work done.

Intercourse of
traffic between
merchants.

II. Provided always, That this Act or any thing therein contained, shall not extend to any intercourse of traffic, merchandizing, buying, selling, or other trading or dealing for wares delivered or to be delivered, money due, or work done or to be done, between merchant and merchant, merchant and tradesman, or between tradesman and tradesman, for any thing directly falling within the circuit or compass of their mutual trades and merchandise, but that for such things only, they and every of them shall be in case as if this Act had never been made; any thing herein contained to the contrary thereof notwithstanding.

A. D. 1623.
21 J. 1. c. 6.

An Act concerning Women convicted of small Felonies.

For felony
where clergy
allowed to the
man, the
woman shall be
burned in the
hand.
2Haw.P.C 339.

WHEREAS, by the laws of this realm the benefit of clergy is not allowed to women convicted of felony, by reason whereof many women do suffer death for small causes; [2] Be it enacted, That any woman being lawfully convicted by her confession or by the verdict of 12 men, of or for the felonious taking of any money, goods or chattles, above the value of 12 pence, and under the value of 10 shillings, or as accessary to any such offence, the said offence being no burglary nor robbery in or near the highway, nor the felonious taking of any money, goods or chattles, from the person of any man or woman privily, without his or their knowledge, but only such an offence as in the like case a man might have his clergy, shall for the 1st offence be branded and marked in the hand, upon the brawn of the left thumb, with a hot burning iron, having a Roman T upon the said iron; the said mark to be made by the gaoler openly in the court before the Judge; [3] and also to be further punished by imprisonment, whipping, stocking or sending to the house of correction, in such sort, manner and form, and for so long time (not exceeding the space of 1 whole year) as the judge, judges or justices before whom she shall be so convicted, or which shall have authority in the cause, shall in their discretion think meet, according to the quality of the offence, and then to be delivered out of prison for that offence; any law, custom or usage to the contrary notwithstanding.

21 J. 1. c. 24.

An Act for the relief of Creditors against such Persons as die in Execution.

The lands of
him that dies in
execution shall
be chargeable
with the debts.
Vin. V. 11. 37.

FORASMUCH as heretofore it hath been much doubted and questioned, if any person being in prison and charged in execution by reason of any judgment given against him, should afterwards happen to die in execution, whether the party at whose suit or to whom such person stood charged in execution at the time of his death, be for ever after concluded and barred to have execution of the lands and goods of such person so dying:

II. And forasmuch as daily experience doth manifest, that divers persons of sufficiency in real and personal estate, minding to deceive others of their just debts for which they stood charged in execution, have obstinately and wilfully chosen rather to live and die in prison, than to make

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any satisfaction according to their abilities : to prevent which deceit, and for the avoiding of such doubts and questions hereafter, (2) be it enacted, That from and after the end of this present session of parliament, the party or parties, at whose suit or to whom any person shall stand charged in execution for any debt or damages recovered, his or their executors or administrators, may after the death of the said person so charged and dying in execution, lawfully sue forth and have new execution against the lands and tenements, goods and chattles, or any of them, of the person so deceased, in such manner and form to all intents and purposes, as he or they or any of them might have had by the laws and statutes of this realm, if such person so deceased had never been taken or charged in execution.

A new execution may be awarded against the lands of him that dies in execution.

III. Provided always, That this Act shall not extend to give liberty to any person or persons, their executors or administrators, at whose suit or suits any such party shall be in execution and die in execution, to have or take any new execution against the lands, tenements or hereditaments of such party so dying in execution, which shall at any time after the said judgment or judgments be by him sold *bona fide*, for the payment of any of his creditors, and the money which shall be paid for the lands so sold, either paid or secured to be paid to any of his creditors, with their privity and consent, in discharge of his or their due debts, or of some part thereof; any thing before in this Act to the contrary thereof in any wise notwithstanding.

This Act shall not extend to lands sold bona fide.

An Act to prevent the destroying and Murthuring of Bastard Children. 21 J. 1. c. 27.

(Repealed by Act of Assembly, 1795.)

WHEREAS, many lewd women that have been delivered of bastard children, to avoid their shame, and to escape punishment, do secretly bury or conceal the death of their children, and after, if the child be found dead, the said women do alledge, that the said child was born dead; whereas it falleth out sometimes (although hardly it is to be proved) that the said child or children were murthured by the said women their lewd mothers, or by their assent or procurement :

II. For the preventing therefore of this great mischief, be it enacted, That if any woman after one month, next ensuing the end of this session of parliament, be delivered of any issue of her body, male or female, which being born alive, should by the laws of this realm be a bastard, and that she endeavour privately, either by drowning or secret burying thereof, or any other way, either by herself or the procuring of others, so to conceal the death thereof, as that it may not come to light, whether it were born alive or not, but be concealed ; in every such case the said mother so offending shall suffer death as in case of murthure, except such mother can make proof by one witness at the least, that the child (whose death was by her so intended to be concealed) was born dead.

It shall be murthure for a mother to conceal the death of her bastard child.

Burn, V. 1. 137

The Petition of Right.—(See Vol. I. of this edition.)

3 C. 1.

An Act for Prevention of Vexations and Oppressions by Arrests, and of Delays in Suits of Law.

A. D. 1661.
13 C. 2. stat. 2.
c. 2.

WHEREAS, by the ancient and fundamental laws of this realm, in case where any person is sued, impleaded or arrested by any writ, bill or process issuing out of any of his Majesty's courts of record at Westmins-

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The ancient fundamental law in proceeding to arrests upon suits, to express the true cause of action in the process.

ter, in any common plea, at the suit of any common person, the true cause of action ought to be set forth and particularly expressed in such writ, bill or process, whereby the defendant may have certain knowledge of the cause of the suit, and the officer who shall execute such writ, bill or process, may know how to take security for the appearance of the defendant to the same, and the sureties for such appearances may rightly understand for what cause they become engaged; (2) and whereas there is a great complaint of the people of this realm, that for divers years now last past very many of his Majesty's good subjects have been arrested upon general writs of trespass, *quare clausum fregit*, bills of Middlesex, Latitats, and other like writs, issued out of the courts of King's bench and common pleas, not expressing any particular or certain cause of action, and thereupon kept prisoners for a long time for want of bail, bonds with sureties for appearances having been demanded in so great sums, that few or none have dared to be security for the appearances of such persons so arrested and imprisoned; although in truth there hath been little or no cause of action: (3) and oftentimes there are no such persons who are named plaintiffs, but those arrests have been many times procured by malicious persons, to vex and oppress the defendants, or to force from them unreasonable and unjust compositions for obtaining their liberty; and by such evil practices many men have been, and are daily undone, and destroyed in their estates, without possibility of having reparation, the actors employed in such practices having been (for the most part) poor and lurking persons, and their actings so secret, that it hath been found very difficult to make true discoveries or proof thereof:

Persons arrested by process out of the King's Bench or Common Pleas, not expressing the cause of action, how to be bailed and set at liberty, upon their own bonds for appearance.

II. For remedy and prevention of which so great growing evils and mischiefs, and also for discouraging all frivolous and unjust suits, and causeless arrests for the future; (2) be it enacted, that from and after the 12th day of February, in the year of our Lord 1661, no person or persons who shall happen to be arrested by any sheriff, under-sheriff, coroner, steward, or bailiff of any franchise or liberty, or by any other officer, minister, under-bailiff, or other person or persons whatsoever, within this realm, having or pretending to have authority or warrant in that behalf, by force or colour of any writ, bill, or process, issuing or to be issuing out of his Majesty's said courts of the King's bench and common pleas, or either of them, in which said writ, bill or process, the certainty and true cause of action is not expressed particularly, and for which the defendant or defendants in such writ, bill or process named, is and are bailable by the statute in that behalf made in the 23d year of the reign of the late King Henry the Sixth, shall be forced or compelled to give security or to enter into bond with sureties, for the appearances of such person or persons so arrested, at the day and place in the said writ, bill or process specified or contained, in any penalty or sum or sums of money, exceeding the sum of £40, of lawful money of England, to be conditioned for such appearances; (3) and that all sheriffs and other officers and ministers aforesaid shall let to bail and deliver out of prison, and from their and every of their custodies respectively, all and every person and persons whatsoever, by them or any of them arrested upon any such writ, bill or process, wherein the certainty and true cause of action is not particularly expressed, upon security in the sum of £40, and no more, given for appearance of such person or persons so arrested, unto the said sheriff or officer aforesaid, according to the said statute in the said 23d year of the reign of the said late King Henry the Sixth in that behalf made and provided.

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III. And upon appearance, to be entered in the term wherein such writ, bill or process is returnable, with the respective officer in that behalf, for the said person or persons, by attorney or attornies in the said respective courts from whence the said writ, bill or process issued, unto such writ, bill, or process, the bond or bonds so given for appearance thereunto, be and are hereby satisfied and discharged; (2) and that after such appearance so entered, no amerciaments be set or estreated upon or against any sheriff or other officer aforesaid, or any other person whatsoever, concerning the want of such appearance; (3) and unless the plaintiff or plaintiffs in any such writ, bill or process named, shall put into the court from whence such writ, bill or process did issue, his or their bill or declaration against the person or persons so arrested, in some personal action, or *ejectione firmæ* of lands or tenements, before the end of the term next following after appearance, that then a nonsuit for want of a declaration may be entered against the said plaintiff or plaintiffs in the said courts respectively; (4) and that every defendant in every such writ, bill or process named, shall or may have judgment to recover costs against every such plaintiff or plaintiffs, to be assessed, taxed and levied in such manner and according as it is provided by the statute for costs, made in the 23d year of the reign of the late King Henry the Eighth; any former or other Act, statute, ordinance, law, custom, order, course or usage of either of the said courts, to the contrary thereof heretofore had, made, admitted or used in any wise notwithstanding.

Bonds (given for) discharged upon appearance.

Nonsuit for want of a declaration before the end of the next term after appearance, and judgment and costs against the plaintiff.
23 H. 8. c. 15.

IV. Provided always, That this Act, nor any clause or thing herein before specified or contained, shall not extend, nor be construed or taken to extend, unto any arrests hereafter to be made, upon or by virtue of any writ of *capias utlagatum*, attachment upon *rescous*, or attachment upon any contempt, or of any attachment of privilege at the suit of any privileged person, or of any other attachment for contempt whatsoever, issuing or to be issuing out of either of the said courts, although there be no particular certainty of the cause of action expressed or contained in the said writs; (2) but that nevertheless no sheriff nor under-sheriff, nor any of the officers or ministers aforesaid, shall discharge any person or persons taken upon any writ of *capias utlagatum* out of custody, without a lawful *superseas* first had and received for the same: (3) And that upon the said writs of attachment, such lawful course be taken for security for appearance therein as hath been heretofore used; any thing herein before expressed to the contrary thereof in any wise notwithstanding.

Arrests upon Capias Utlagatum, Attachments upon Rescous, Contempts, and of Privileges, excepted.

V. And whereas many persons out of ill intent to delay their creditors from recovering their just debts, continue prisoners in the Fleet, who cannot be proceeded against in such manner as they might be, if they were at large; now for the better enabling all persons to recover their just debts and demands against such prisoners, [2] be it further enacted, that every person or persons whatsoever, who now hath or have, or which at any time hereafter shall have, cause of any personal action against any person being a prisoner in the prison of the Fleet, may sue forth an original writ upon his or their cause of action; and that a writ of *Habeas Corpus* be granted to every such person or persons, being plaintiff or plaintiffs, desiring the same, to be directed to the warden of the same prison, to have the body of such prisoner before the justices of the common pleas, at some certain day in any term, to answer the said plaintiff or plaintiffs upon his or their said cause of action; and that if the said plaintiff or plaintiffs at the said day, put into the said court his or their declaration, according to the said origi-

How persons having cause of action may proceed against prisoners in the Fleet.

Farther provisions relating to prisoners, 22 & 23 Car. 2. c. 20. 4 & 5 W. & M. c. 21.

A. D. 1713.

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nal writ, against the said prisoner being present at the bar, the said prisoner shall be bound to appear in person, or to put in an attorney to appear for him in the said action; [3] and unless the said defendant plead upon a rule given, to be out at 8 days at the least after such appearance, judgment by *nihil dicit* may be entered against such defendant as appearing in person, which shall be good and effectual in law; [4] and such charge in court by declarations, signified by rule unto the said warden, shall be a good cause of detention of such prisoner in his custody, from which he shall not be discharged without a lawful *Supersedeas*, or rule of court: [5] And if the said warden shall do otherwise, he shall be responsible to the court, and to the party grieved, for damages, by action upon the case to be brought against him for discharging such prisoner.

Delays in suits
by reason of 15
days between
the *Teste* and
return of writs,
remedied in
actions
personal.
Ejectione
firmae.
Venire facias.
Habeas Corpora
Jurator.
Distringas
Jurator.
Fieri facias,
Capias ad
satisfaciendum.

VI. And whereas very many suits commenced by original writs have been protracted and long delayed from judgment and execution, by reason of the necessity of having fifteen days at the least between the days of the *Teste* and the days of return of writs now used in personal actions, and also in actions of *Ejectione firmae*, for lands and tenements; [2] for remedy thereof, and for the more easy expediting trials, and the better and more speedy executing of judgments for the time to come, [3] be it further enacted, that in all actions of debt, and all other personal actions whatsoever, and also in all actions of *Ejectione firmae* for lands or tenements now depending, or which at any time hereafter shall be depending, by original writ, in either of his Majesty's courts aforesaid, after any issue therein joined to be tried by a jury, and also after any judgment had or obtained, or to be had or obtained, in either of the courts aforesaid, in any such action as aforesaid, there shall not need to be fifteen days between the *Teste* day and the day of return of any writ or writs of *Venire facias*, *Habeas Corpora Juratorum*, or *Distringas Juratores*, writs of *Fieri Facias*, or writs of *Capias ad satisfaciendum*: [4] and that the want of fifteen days between the *Teste* day and the day of return of any such writ, shall not be, nor shall be assigned, taken or adjudged to be, any matter or cause of error; any law, custom, statute, course or usage to the contrary thereof in any wise notwithstanding.

Where exigent
lieth after
judgment, or to
make the bail
appear,
excepted.

VII. Provided nevertheless, that this Act, nor any thing therein contained, shall not extend or be construed to extend to any writ of *Capias ad satisfaciendum* whereon a writ of exigent after judgment is to be awarded, nor to *Capias ad satisfaciendum* against the defendant, in order to make any bail liable, but that the same continue and be as if this Act had never been made.

Touching stay-
ing executions
by *Supersedeas*
or writs of
Error, and in
what actions it
may be stayed.

VIII. And whereas by an Act of Parliament made in the third year of the reign of our late sovereign Lord King James of blessed memory, a very good law was made for avoiding unnecessary delays of execution, whereby it is enacted, that no execution shall be stayed or delayed upon or by any writ of error or *Supersedeas* thereupon to be sued for the reversing of any judgment to be given in any action or bill of debt, upon any single bond for debt, or upon any obligation with condition for payment of money only, or upon any action or bill of debt for rent, or upon any contract sued in any of his highness courts of record at Westminster, or in the counties Palatine of Chester, Lancaster or Durham, or in his highness courts of great sessions in any of the twelve shires of Wales, unless such person or persons, in whose name or names such writ of error shall be brought, with two sufficient sureties, such as the court wherein such judgment is or shall be given, shall allow of, shall first before such stay made, or *Supersedeas* to

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be awarded, be bound for the party for whom any such judgment was or should be given, by recognizance to be acknowledged in the same court, in double the sum adjudged to be recovered by the said former judgment, to prosecute the said writ of error with effect, and also to satisfy and pay (if the said judgment shall be affirmed) all and singular the debts, damages and costs adjudged or to be adjudged upon the former judgment, and all costs and damages to be also awarded for the same delaying of execution; which law hath been found by experience to be very good and beneficial to the commonwealth: [2] and forasmuch as divers other cases within the same mischief, by delays and staying of execution by writs of error, and *Supersedas* thereupon, are not provided for by the said statute; for further remedy against delays and stayings of executions in the several actions hereafter specified,

IX. Be it further enacted and ordained by the authority aforesaid, that from and after the twentieth day of January in the year of our Lord one thousand six hundred sixty and one, no execution shall be stayed in any of the courts aforesaid, by any writ or writs of error or *Supersedas* thereupon, after any verdict and judgment thereupon obtained, in any action of debt grounded upon the statute made in the second year of the reign of the late King Edward the sixth, for not setting forth of tithes, nor in any action upon the case upon any promise for payment of money, actions *sur Trever*, actions of covenant, detinue and trespass, unless such recognizance, and in such manner, as by the said recited former Act is directed, shall be first acknowledged in the said court where such judgment is given.

X. And be it also enacted by the authority aforesaid, That if any person or persons after the said day shall sue or prosecute any writ or writs of error, for reversal of any judgment whatsoever given after any verdict in any of the courts aforesaid, and the said judgment shall afterwards be affirmed, then every such person or persons shall pay unto the defendant or defendants in the said writ or writs of error, his or their double costs, to be assessed by the court where such writ of error shall be depending, for the delaying of execution.

XI. Provided nevertheless, That this Act, nor any thing therein contained, shall not extend to any action popular, nor unto any other action which is or hereafter shall be brought upon any penal law or statute (except debt for not setting out tithes as aforesaid) nor to any indictment, presentment, inquisition, information or appeal; any thing herein before expressed to the contrary thereof notwithstanding.

An Act to prevent the delivering of Merchant Ships.

A. D. 1664.
16 C. 2. c. 6.

An Act against deceitful, disorderly, and excessive Gaming.

16 2. C. c. 7.

WHEREAS, all lawful games and exercises should not be otherwise used, than as innocent and moderate recreations, and not as constant trades or callings to gain a living or make unlawful advantage thereby; (2) and whereas, by the immoderate use of them, many mischiefs and inconveniences do arise, and are daily found, to the maintaining and encouraging of sundry idle, loose and disorderly persons in their dishonest, lewd and dissolute course of life, and to the circumventing, deceiving, cousening and debauching of many of the younger sort, both of the nobility and gentry, and others, to the loss of their precious time, and the utter ruin of their estates and fortunes, and withdrawing them from noble and laudable employments and exercises:

In what actions execution may be stayed (by writ of Error) by this statute. 1 Lev. 260.

The Defendant to have double costs for delays of his execution by writ of Error.

Popular actions upon a penal law, indictments, &c. not within this statute.

The inconvenience of immoderate and unlawful use of gaming. 5 Mod. 1, 4, 35.

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Deceits and
cousenages in
gaming.
Vin. V. 14—4,
&c.
See 9 Anne, c.
14.

Penalty.

How to be sued
for and
recovered.

Prevention of
excessive and
immoderate
gaming.

- 1 Vent. 253.
- 1 Lutw. 180.
- 2 Mod. 54.
- 1 Salk. 344.
- 2 Lev. 94.
- 4 Mod. 409.

The Penalty.
Farther provis-
ions relating
thereto, 9 Ann.
c. 14.

II. Be it therefore enacted, that if any person or persons of any degree or quality whatsoever, at any time or times after the nine and twentieth day of September, which shall be in the year of our Lord God one thousand six hundred, sixty and four, do or shall by any fraud, shift, cousenage, circumvention, deceit, or unlawful device, or ill practice whatsoever, in playing at or with cards, dice, tables, tennis, bowles, kittles, shovel-board; or in or by cock-fightings, horse races, dog matches, foot races, or other pastimes, game or games whatsoever, or in or by bearing a share or part in the stakes, wagers or adventures, or in or by betting on the sides or hands of such as do or shall play, act, ride or run as aforesaid, win, obtain, or acquire to him or themselves, or to any other or others, any sum or sums of money, or other valuable thing or things whatsoever; that then every person and persons so offending as aforesaid, shall *ipso facto* forfeit and lose treble the sum or value of money, or other thing or things so won, gained, obtained or acquired; [2] the one moiety thereof to our sovereign Lord the King, his heirs and successors; and the other moiety thereof unto the person or persons grieved, or who shall lose the money, or other thing or things so gained; so as every such loser and person grieved in that behalf, do or shall prosecute and sue for the same within six Kalendar months next after such play: (3) And in default of such prosecution, the same other moiety to such person or persons as shall or will prosecute or sue for the same within one year next after the said six months expired; (4) and that the said forfeitures shall or may be sued for, or recovered by action of debt, bill, plaint or information, in any of his Majesty's courts at Westminster, whereiu no essoin, protection or wager of law shall be allowed: (5) And that all and every such plaintiff or plaintiffs, informer or informers, shall in every such suit and prosecution have and recover his and their treble costs against the person offending and forfeiting as aforesaid; any law, statute, custom or usage to the contrary in any wise notwithstanding.

III. And for the better avoiding and preventing of all excessive and immoderate playing and gaming for the time to come; [2] be it further enacted, that if any person or persons shall at any time or times after the nine and twentieth day of September aforesaid, play at any of the said games, or any other pastime, game or games whatsoever, (other than with and for ready money) or shall bett on the sides or hands of such as do or shall play thereat, and shall lose any sum or sums of money, or other thing or things so played for, exceeding the sum of one hundred pounds at any one time or meeting, upon ticket or credit, or otherwise, and shall not pay down the same at the time when he or they shall so lose the same, the party and parties who loseth or shall lose the said monies, or other thing or things so played or to be played for, above the said sum of one hundred pounds, shall not in that case be bound or compelled or compellable to pay or make good the same; [3] but the contract and contracts for the same, and for every part thereof, and all and singular judgments, statutes, recognizances, mortgages, conveyances, assurances, bonds, bills, specialties, promises, covenants, agreements, and other acts, deeds and securities, whatsoever, which shall be obtained, made, given, acknowledged or entered into for security or satisfaction of or for the same or any part thereof, shall be utterly void and of none effect; [4] and that the said person or persons so winning the said monies, or other things, shall forfeit and lose treble the value of all such sum and sums of money, or other thing or things, which he shall so win, gain, obtain or acquire, above the said sum

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of £100; [5] the one moiety thereof to our said sovereign lord the King; his heirs and successors; and the other moiety thereof to such person or persons as shall prosecute or sue for the same within 1 year next after the time of such offence committed; [6] and to be sued for by action of debt, bill, plaint or information, in any of his Majesty's courts of record, at Westminster, wherein no essoin, protection or wager of law shall be allowed; [7] and that every such plaintiff or plaintiffs, informer or informers, shall in every such suit and prosecution, have and receive his treble costs against the person and persons offending and forfeiting as aforesaid; any law, custom or usage to the contrary notwithstanding.

An Act to prevent Arrests of Judgment, and superseding Executions. 16&17 C. 2. c. 8.

(See A. A. 9th April, 1734.)

WHEREAS, great delay, trouble and vexation hath been and still is occasioned to the people of this realm, as well by arresting and reversing of judgments, as by staying executions by writs of error and *Supersedeas*; This Act extended to writs of Mandamus, &c. by 9 Anne, c. 20. [2] For remedy thereof, be it enacted, that if any verdict of twelve men shall be given in any action, suit, bill or demand, to be commenced from and after the 25th day of March, which shall be in the year of our Lord 1665, in any of his majesty's courts of record at Westminster, or in the courts of record in the counties Palatine of Chester, Lancaster or Durham; In what Court and cases judgment after verdict shall not be stayed for default of form in pleading. or in his Majesty's courts of the great sessions in any of the 12 Shires of Wales; judgment thereupon shall not be stayed or reversed, for default in form or lack of form; [3] or by reason that there are not pledges, or but 1 pledge to prosecute, returned upon the original writ; [4] or because the name of the Sheriff is not returned upon such original writ; (5) or for default of entering pledges upon any bill or declaration; (6) or for default of alledging the bringing into court of any Bond, Bill, Indenture, or other deed whatsoever mentioned in the declaration, or other pleading; 1 Mod. 198. (7) or for default of allegation of the bringing into court of Letters Testamentary or Letters of Administration; 1 Salk. 37, 38. Mod. Cases in Law, 198, 356. (8) or by reason of the omission *Vi & Armis* or *Contra pacem*; (9) or for or by reason of the mistaking of the christian name or surname of the plaintiff or defendant, demandant or tenant, sum or sums of money, day, month or year, by the Clerk, in any Bill, Declaration or Pleading, where the right name, surname, sum, day, month or year, in any Writ, Plaint, Roll, or Record preceding, or in the same Roll or Record where the mistake is committed, is or are once truly and rightly alledged, whereunto the plaintiff might have demurred and shewn the same for cause; (10) nor for want of the averment *Hoc paratus est verificare*; (11) or for *Hoc paratus est verificare per Recordum*; (12) or for not alledging *Prout patet per Recordum*; (13) or for that there is no right *Venue*, so as the cause were tried by a Jury of the proper county or place where the action is laid; (14) nor any judgment after verdict, confession by *Cognovit Actionem* or *Relicta verificatione* shall be reversed for want of *Misericordia* or *Capiatur*; (15) or by reason that a *Capiatur* is entered for a *Misericordia*, or a *Misericordia* is entered where a *Capiatur* ought to have been entered; (16) nor for that *Ideo concessum est per Curiam* is entered for *Ideo consideratum est per Curiam*; (17) nor for that the increase of costs after a verdict in any action, or upon a nonsuit in replevin are not entered to be at the request of the party for whom the judgment is given; (18) nor by reason that the costs in any judgment whatsoever are not entered to be by consent of the plaintiff; (19) but Farther provisions of this kind. 4 Anne, c. 16.

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that all such omissions, variances, defects, and all other matters of like nature, not being against the right of the matter of the suit, nor whereby the issue or trial are altered, shall be amended by the justices or other judges of the Courts where such judgments are or shall be given, or whereunto the Record is or shall be removed by Writ of Error.

Proviso for Appeals, Indictments Actions upon Penal Laws, other than for customs and subsidies.

II. Provided always, That this Act, or any thing therein contained, shall not extend to any Writ, Declaration or Suit of Appeal of Felony or Murder, nor to any Indictment or Presentment of Felony, Murder, Treason or other matter, nor to any process upon any of them; (2) nor to any Writ, Bill, Action, or Information upon any Penal Statute, other than concerning customs and subsidies of tonnage and poundage; any thing in this Act contained to the contrary thereof in any wise notwithstanding.

In what cases execution shall not be stayed by Writ of Error, but upon recognizance entered according to Jac. 1. c. 8. Carthew. 121. 3 Lev. 277.

III. And be it further enacted, That from and after the 20th day of March in the year of our Lord 1664, no execution shall be stayed in any of the aforesaid Courts by Writ of Error or *Supersedeas* thereupon, after verdict and judgment thereupon, in any action personal whatsoever, unless a Recognizance with condition according to the statute made in the third year of the reign of our late Sovereign Lord King James, shall be 1st acknowledged in the Court where such judgment shall be given: (2) And further, That in Writs of Error to be brought upon any judgment after verdict in any Writ of Dower, or in any action of *Ejectione firma*, no execution shall be thereupon or thereby stayed, unless the plaintiff or plaintiffs in such Writ of Error shall be bound unto the plaintiff in such Writ of Dower, or action of *Ejectione firma*, in such reasonable sum as the Court to which such Writ of Error shall be directed shall think fit, with condition, That if the judgment shall be affirmed in the said Writ of Error, or that the said Writ of Error be discontinued in default of the plaintiff or plaintiffs therein, or that the said plaintiff or plaintiffs be nonsuit in such Writs of Error, That then the said plaintiff or plaintiffs shall pay such costs, damages and sum and sums of money, as shall be awarded upon or after such judgment affirmed, discontinuance or nonsuit had.

Proviso touching judgment in dower and *ejectione firma*.

IV. And to the end that the same sum and sums and damages may be ascertained, it is further enacted, That the Court wherein such execution ought to be granted, upon such affirmation, discontinuance or nonsuit, shall issue a writ to enquire as well of the mean profits as of the damages by any waste committed after the 1st judgment in Dower or in *Ejectione firma*; and upon the return thereof, judgment shall be given, and execution awarded for such mesne profits and damages, and also for costs of suit.

To what actions this Act shall not extend.

V. Provided, That this act, nor any thing therein contained, shall not extend to any Writ of Error to be brought by any Executor or Administrator; [2] nor unto any action popular; nor unto any other action which is or hereafter shall be brought upon any Penal Law or Statute (except actions of debt for not setting forth of Tithes); [3] nor to any indictment, presentment, inquisition, information or appeal; any thing herein before expressed to the contrary thereof in any wise notwithstanding.

A. D. 1665.
17 C. 2. c. 8.

An Act for avoiding unnecessary Suits and Delays.

For the avoiding of unnecessary suits and delays, Be it enacted, That in all actions personal, real, or mixt, the death of either party between the verdict and the judgment, shall not hereafter be alledged for error, so as such judgment be entered within 2 terms after such verdict.

Death of either party between the verdict and judgment.

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II. And be it further enacted, where any judgment after a verdict shall be had, by or in the name of any Executor or Administrator; in such case an Administrator *de bonis non* may sue forth a *scire facias*, and take execution upon such judgment.

1 Lev. 277.
1 Salk 323.
1 Bays rep. 449.
Salk. 8. 2 Keb.
800. Vern. ca.
220. Judgment
obtained by an
Ex'r. Yelv. 133.

*An Act to prevent malicious Maiming and Wounding.**

A. D. 1670.

VII. And for prevention of the like mischiefs for the time to come, Be it enacted, That if any person or persons, from and after the 24th day of June which shall be in the year of our Lord God 1671 on purpose and of malice fore-thought, and by lying in wait, shall unlawfully cut out or disable the tongue, put out an eye, slit the nose, cut off a nose or lip, or cut off or disable any limb or member of any subject of his Majesty, with intention in so doing to maim or disfigure in any the manners before mentioned such his Majesty's subject; that then and in every such case the person or persons so offending, their counsellors, aiders and abettors, (knowing of, and privy to the offence as aforesaid) shall be and are hereby declared to be felons, and shall suffer death as in cases of Felony, without benefit of Clergy.

22 & 23 C. 2.
c. 1.
Malicious
maiming made
felony. Rex. v.
Coke apud
Bury.
8 Geo. 1.
Forfeiture.

VIII. Provided, That no attainder of such felony shall extend to corrupt the blood, or forfeit the Dower of the wife, or the Lands, Goods or Chattles of the Offender.

* The Coventry Act.

An Act to prevent the malicious Burning of Houses, Stacks of Corn and Hay, and killing or maiming of Cattle.

23 & 23 C. 2.
c. 7.

WHEREAS, divers lewd and evil-disposed persons, intending the ruin and impoverishment of their fellow subjects, have devised, and of late secretly in the night time, and at other times when they think their deeds are not known, frequently practised in several parts of this kingdom, unlawful and wicked courses in burning of Ricks and Stacks of Hay, Corn and Grain, destroying of buildings, trees, and cutting, maiming, wounding and killing of Horses, Sheep, Beasts, and other cattle, in contempt of the Laws, and to the insupportable wrong and damage of many of his Majesty's good subjects.

Felony for
wilful burning
of any ricks of
Corn, Hay, &c.
or Barns &c. in
the night-time.
3 Inst. 66, 67.
37 H.8. c. 6.

II. For prevention whereof, and discovery of the offenders, Be it enacted, That where in any part of this Kingdom any person or persons after the 1st day of March in the year of our Lord 1670, shall in the night-time maliciously, unlawfully and willingly burn, or cause to be burnt or destroyed, any Ricks or Stacks of Corn, Hay, or Grain, Barns, or other Houses or Buildings, or Kilns, or shall in the night-time, maliciously, unlawfully, and willingly kill or destroy any horses, sheep, or other cattle, of any person or persons whatsoever; every such offence shall be adjudged felony, and the offenders, and every of them, shall suffer as in case of Felony.

III. Provided always, That no attainder for any the offences made Felony by virtue of this Act, shall make or work any corruption of blood, loss of Dower, or disinheritance of heir or heirs.

Attainder shall
not work
corruption of
blood, &c.

IV. In case any person or persons who shall be convict or attainted of any the offences made felony by virtue of this Act as aforesaid, (to avoid judgment of death, or execution thereupon for such his offence) shall make his election to be transported beyond the seas, to any of his Majesty's

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The party at liberty to be transported for seven years.
1 Haw.P.C. 105
1 Hale's P. C. 566. &c.

Felony to return before the seven years expired.

Treble damages for maiming of cattle, or throwing down of inclosures, &c. in the night-time.

Three or more Justices of the Peace have power to enquire of the offence, and punish the offenders.

A witness refusing to appear shall be committed to prison.

No person shall be twice punished for this offence.
The prosecution must be within six months.

plantations; That then the Justices of Assize, Oyer and Terminer, Gaol-delivery, or Justices of the Peace, before whom such offender shall be convict or attain by virtue of this Act, and every of them respectively, shall cause judgment to be entered against every such offender, that he be transported beyond the seas to some of his Majesty's plantations, in the said judgment to be particularly mentioned and expressed, there to remain for the space of 7 years; and that in pursuance of the said judgment, the Sheriff or Sheriffs of the county or city where such offender shall be so convict or attainted, shall cause the said offender to be safely conveyed and embarked to be transported as aforesaid; and if any such offender shall return into this kingdom before the expiration of the said 7 years, he shall suffer death as a Felon, and as if no such election to be transported had been made by him.

V. If any person or persons shall in the night-time maliciously, unlawfully and willingly maim, wound, or otherwise hurt any horses, sheep or other cattle, whereby the same shall not be killed or utterly destroyed, or shall destroy any plantations of trees, or throw down any inclosures, in manner aforesaid; That then every such offender or offenders shall lose and forfeit unto the party grieved treble the damage which he or they shall thereby sustain; the same to be recovered by action of Trespass, or upon the case, to be taken at the common law.

VI. And be it further enacted, That upon the complaint and request of the party or parties injured in any such manner, any three or more Justices of the Peace for the county, division, city, town corporate, or place where such offence shall be committed, whereof 1 to be of the *Quorum*, shall and may, and they are thereunto authorized and required by virtue of this Act, to enquire, as well by the oaths of 12 lawful men or more of the same county, as by examination of witnesses upon oath, or by any lawful ways or Means which to them shall seem meet, of and concerning any the offences before incurred, and offenders therein; and in order thereunto, to issue out warrants, as well for the summoning of Jurors, as for the apprehending of all such persons, as shall or may be thereof suspected, and to take their examination touching the same; as also to cause all such other persons as to them shall seem likely to make discovery thereof, to appear before them, and to give information upon oath, of and concerning their knowledge of the premises; so as no person so to be examined by the said Justices of the Peace, shall be convicted, or in any wise proceeded against, for or by reason of any offence concerning which he or they shall be so examined as a witness, and shall upon such his examination make a true discovery thereof; (2) and in case any person or persons, who by the said Justices be thought likely to make discovery as aforesaid, shall refuse to appear or to be examined as a witness, being duly summoned by the said Justices in pursuance of this act; it shall and may be lawful for the said Justices of the Peace to commit the party so refusing, to the common gaol for the said county without Bail or Mainprize, until he shall submit to be examined upon oath, of and concerning his knowledge touching the same offence, or the offenders by whom the same was committed.

VII. Provided, That no person who shall be punished for any offence by virtue of this act, shall be punished for the same offence by virtue of any other act or law whatsoever; nor shall be questioned for the same, unless he be proceeded against within 6 months after the offence committed.

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*An Act for the better Settling of Intestates Estates.*22 & 23 C. 2.
c. 10

(See A. A. 1789.)

BE it enacted, That all ordinaries, as well the judges of the prerogative courts of Canterbury and York for the time being, as all other who have power to grant administrations, shall and may upon their respective granting and committing of administrations of the goods of persons dying intestate, after the 1st day of June, 1671, of the respective person or persons to whom any administration is to be committed, take sufficient bonds with 2 or more able sureties, respect being had to the value of the estate, in the name of the ordinary, with the condition in form and manner following, *mutatis mutandis*, viz.

II. The condition of this obligation is such, That if the within bounden A. B. administrator of all and singular the goods, chattles and credits of C. D. deceased, do make or cause to be made a true and perfect inventory of all and singular the goods, chattles and credits of the said deceased, which have or shall come to the hands, possession, or knowledge of him the said A. B. or into the hands and possession of any other person or persons for him, and the same so made do exhibit or cause to be exhibited into the registry of court, at or before the day of next ensuing; (2) and the same goods, chattles and credits, and all other the goods, chattles and credits of the said deceased at the time of his death, which at any time after shall come to the hands or possession of the said A. B. or into the hands and possession of any other person or persons for him, do well and truly administer according to law; (3) And further do make or cause to be made, a true and just account of his said administration, at or before the day of And all the rest and residue of the said goods, chattles and credits which shall be found remaining upon the said administrator's account, the same being first examined and allowed of by the judge or judges for the time being of the said court, shall deliver and pay unto such person or persons respectively, as the said judge or judges by his or their decree or sentence, pursuant to the true intent and meaning of this Act, shall limit and appoint. (4) And if it shall hereafter appear that any last will and testament was made by the said deceased, and the executor or executors therein named do exhibit the same into the said court, making request to have it allowed and approved accordingly, if the said A. B. within bounden, being thereunto required, do render and deliver the said letters of administration (approbation of such testament being first had and made) in the said court, then this obligation to be void and of none effect, or else to remain in full force and virtue.

III. Which bonds are hereby declared and enacted to be good to all intents and purposes, and pleadable in any courts of justice: (2) And also that the said ordinaries and judges respectively, shall and may, and are enabled to proceed and call such administrators to account, for and touching the goods of any person dying intestate; (3) and upon hearing and due consideration thereof, to order and make just and equal distribution of what remaineth clear (after all debts, funerals and just expences of every sort first allowed and deducted) amongst the wife and children, or children's children, if any such be, or otherwise to the next of kindred to the dead person in equal degree, or legally representing their stocks *pro suo cuique jure*, according to the laws in such cases, and the rules and limitations

All Ordinaries who have power to grant administrations, have power to take bond.
Vaughan 96.
31 Ed. 3, c. 11.

The condition of the bonds.

18 Salk. 315, 316.

Ordinaries have power to call Administrators to account and to make distribution among the wife and children, &c.
Vin. V. 14, 464.
Wood P. 1. 159.
Explained by 1 Jac. 2. c. 17. 98.
Skinner 26.

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hereafter set down; and the same distributions to decree and settle, and to compel such administrators to observe and pay the same, by the due course of his Majesty's ecclesiastical laws: (4) Saving to every one, supposing him or themselves aggrieved, their right of appeal as was always in such cases used.

How and to
whom the sur-
plusage is to be
distributed.
2 Mod 20, 101.
3 Mod. 58.
1 Vern. 465.

V. Provided always, That all ordinaries and every other person who by this Act is enabled to make distribution of the surplusage of the estate of any person dying intestate, shall distribute the whole surplusage of such estate or estates in manner and form following, that is to say, (2) one third part of the said surplusage to the wife of the intestate, and all the residue by equal portions, to and amongst the children of such persons dying intestate, and such persons as legally represent such children, in case any of the said children be then dead, other than such child or children (not being heir at law) who shall have any estate by the settlement of the intestate, or shall be advanced by the intestate in his life-time, by portion or portions equal to the share which shall by such distribution be allotted to the other children to whom such distribution is to be made: (3) And in case any child, other than the heir at law, who shall have any estate by settlement from the said intestate, or shall be advanced by the said intestate in his life-time by portion not equal to the share which will be due to the other children by such distribution as aforesaid, then so much of the surplusage of the estate of such intestate, to be distributed to such child or children as shall have any land by settlement from the intestate, or were advanced in the life-time of the intestate, as shall make the estate of all the said children to be equal as near as can be estimated: (4) But the heir at law, notwithstanding any land that he shall have by descent or otherwise from the intestate, is to have an equal part in the distribution with the rest of the children, without any consideration of the value of the land which he hath by descent or otherwise from the intestate.

Advancement
by portion.
1 P.Wms. 28-9.
1 Shower 23.

Heir at law to
have an equal
part.
1 Ven. 316.
2 Lev. 173.
3 Ven. 317.
2 Mod. 204.
1 Mod. 209.

VI. And in case there be no children nor any legal representatives of them, then one moiety of the said estate to be allotted to the wife of the intestate, the residue of the said estate to be distributed equally to every of the next kindred of the intestate, who are in equal degree, and those who legally represent them.

If no wife, then
to be distribu-
ted amongst
the children.
1 Salk. 250.
Raymond 496.
Carthew 51.
Jones Sir T. 93.
2 Vernon 169,
170, 233.

VII. Provided, That there be no representations admitted among collaterals after brothers and sisters children: (2) And in case there be no wife, then all the said estate to be distributed equally to and amongst the children: (3) And in case there be no child, then to the next of kindred in equal degree of or unto the intestate, and their legal representatives, as aforesaid, and in no other manner whatsoever.

No distribution
till after 1 year.
If debts after-
wards appear,
then all to re-
fund propor-
tionably.

VIII. Provided also, and be it likewise enacted, To the end that a due regard be had to creditors, that no such distribution of the goods of any person dying intestate to be made till after one year be fully expired after the intestate's death; (2) and that such and every one to whom any distribution and share shall be allotted, shall give bond with sufficient sureties in the said courts, that if any debts truly owing by the intestate shall be afterwards sued for and recovered, or otherwise duly made to appear, that then and in every such case he or she shall respectively refund and pay back to the administrator his or her rateable part of that debt or debts, and of the costs of suit and charges of the administrator by reason of such debt, out of the part and share so as aforesaid allotted to him or her, thereby to enable the said administrator to pay and satisfy the said debt or debts so discovered after the distribution made as aforesaid.

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IX. Provided always, in all cases where the Ordinary hath used therefore to grant administration *cum testamento annexo*, he shall continue so to do, and the will of the deceased in such testaments expressed shall be performed and observed in such manner as it should have been if this Act had never been made.

This Act shall not extend to administration *cum testamento annexo*.

An Act for the Relief and Release of poor distressed Prisoners for Debt. 23 & 23 C. 1. c. 20.

XIII. Whereas it is become the common practice of the gaolers and keepers of Newgate, the Gatehouse at Westminster, and sundry other gaols and prisons, to lodge together in one room or chamber and bed, prisoners for debt and felons, whereby many times honest gentlemen, tradesmen and others, prisoners for debt, are disturbed and hindered in the night-time from their natural rest, by reason of their fetters and irons, and otherwise much offended and troubled by their lewd and profane language and discourses, with most horrid cursing and swearing, (much accustomed to such persons); [2] be it enacted, That it shall not be lawful hereafter for any sheriff, gaoler or keeper of any gaol or prison, to put, keep or lodge prisoners for debt, and felons together in one room or chamber; but that they shall be put, kept and lodged separate and apart one from another, in distinct rooms; [3] upon pain that he, she or they which shall offend against this Act, or the true intent and meaning thereof or any part thereof, shall forfeit and lose his or her office, place or employment, and shall forfeit treble damages to the party grieved, to be recovered by virtue of this Act; any law, statute, usage or custom to the contrary in any wise notwithstanding.

Felons and prisoners for debt not to be lodged together

1 Ed. 3, stat. 1 & 2, c. 7.
2 Inst. 25.
The forfeiture for offending against this act.
Further provisions relating hereto, 4 & 5 W. & M. c. 21.
30 Car. 2.

The rest of this Act was not made of force here.

*An Act for Prevention of Frauds and Perjuries.*A. D. 1673.
29 C. 2. c. 3.

See A. A. 1789.

FOR prevention of many fraudulent practices, which are commonly endeavoured to be upheld by perjury and subornation of perjury: (2) be it enacted, That from and after the 24th day of June, which shall be in the year of our Lord 1677, all leases, estates, interests of freehold, or terms of years, or any uncertain interest of, in, to or out of any messuages, manors, lands, tenements or hereditaments, made or created by livery and seisin only, or by parol, and not put in writing, and signed by the parties so making or creating the same, or their agents thereunto lawfully authorised by writing, shall have the force and effect of leases or estates at will only, and shall not either in law or equity be deemed or taken to have any other or greater force or effect; any consideration for making any such parol leases or estates, or any former law or usage, to the contrary notwithstanding.

1 Roll. Abr. 24.
2 Lev. 227.
Parol leases & interest of freehold shall have the force of estates at will only.

. II. Except nevertheless, all leases not exceeding the term of 3 years from the making thereof, whereupon the rent reserved to the landlord, during such term, shall amount unto two third parts at the least of the full improved value of the thing demised.

Except leases not exceeding 3 years, &c.

. III. And moreover, That no leases, estates or interests, either of freehold, or term of years, or any uncertain interest, not being copyhold or

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No leases or estates of freehold shall be granted or surrendered by word.

customary interest, of, in, to or out of any messuages, manors, lands, tenements or hereditaments, shall at any time after the said 24th day of June be assigned, granted or surrendered, unless it be by deed or note in writing, signed by the party so assigning, granting or surrendering the same, or their agents thereunto lawfully authorized by writing, or by act and operation of law.

Promises and agreements by parol.

1 Shower 16.

Skin. 142, 143.

2 Mod. 310.

* 1 Vent. 361.

362.

3 Lev. 65, 66.

1 Salk. 280.

IV. And be it further enacted, That from and after the said 24th day of June no action shall be brought whereby to charge any executor or administrator upon any special promise, to answer damages out of his own estate; [2] or whereby to charge the defendant upon any special promise, to answer for the debt, default or miscarriage of another person; [3] or to charge any person upon any agreement made upon consideration of marriage; [4] or upon any contract or sale of lands, tenements or hereditaments, or any interest in or concerning them; [5] or upon any agreement that is not to be performed within the space of one year from the making thereof; [6] unless the agreement upon which such action shall be brought, or some memorandum or note thereof, shall be in writing, and signed by the party to be charged therewith, or some other person thereunto by him lawfully authorised.

Devises of land shall be in writing and attested by 3 or 4 witnesses.

3 Lev. 86.

Carth. 35, 514.

3 Mod. 218, 362.

V. And be it further enacted, That from and after the said 24th day of June all devises and bequests of any lands or tenements devisable either by force of the statute of wills, or by this statute, or by force of the custom of Kent, or the custom of any borough, or any other particular custom, shall be in writing, and signed by the party so devising the same, or by some other person in his presence and by his express directions, and shall be attested and subscribed in the presence of the said devisor by 3 or 4 credible witnesses, or else they shall be utterly void and of none effect.

How the same shall be revocable.

3 Mod. 260.

VI. And moreover, no devise in writing of lands, tenements or hereditaments, nor any clause thereof, shall at any time after the said 24th day of June be revocable, otherwise than by some other will or codicil in writing, or other writing declaring the same, or by burning, cancelling, tearing or obliterating the same by the testator himself, or in his presence and by his directions and consent; [2] but all devises and bequests of lands and tenements shall remain and continue in force, until the same be burnt, cancelled, torn or obliterated by the testator or his directions, in manner aforesaid, or unless the same be altered by some other will or codicil in writing, or other writing of the devisor, signed in the presence of 3 or 4 witnesses, declaring the same; any former law or usage to the contrary notwithstanding.

All declarations or creations of trusts shall be in writing.

Explained by 4

Ann. c. 16.

§. 15.

VII. And be it further enacted, that from and after the said 24th day of June all declarations or creations of trusts or confidences of any lands, tenements or hereditaments, shall be manifested and proved by some writing signed by the party who is by law enabled to declare such trust, or by his last will in writing, or else they shall be utterly void and of none effect.

Trusts arising, transferred or extinguished by implication of law, are excepted.

VIII. Provided always, that where any conveyance shall be made of any lands or tenements by which a trust or confidence shall or may arise or result by the implication or construction of law, or be transferred or extinguished by an Act or operation of law, then and in every such case such trust or confidence shall be of the like force and effect as the same

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would have been if this statute had not been made; any thing herein before contained to the contrary notwithstanding.

IX. And be it further enacted, that all grants and assignments of any trust or confidence shall likewise be in writing, signed by the party granting or assigning the same, or by such last will or devise, or else shall likewise be utterly void and of none effect. Assignments of trusts shall be in writing. *Read 2 Vent.

X. And be it further enacted, that from and after the said 24th day of June it shall and may be lawful for every sheriff or other officer to whom any writ or precept is or shall be directed, at the suit of any person or persons, of, for and upon any judgment, statute or recognizance hereafter to be made or had, to do, make and deliver execution unto the party in that behalf suing, of all such lands, tenements, rectories, tithes, rents and hereditaments, as any other person or persons be in any manner or wise seized or possessed, or hereafter shall be seized or possessed, in trust for him against whom execution is so sued, like as the sheriff or other officer might or ought to have done, if the said party against whom execution hereafter shall be so sued, had been seized of such lands, tenements, rectories, tithes, rents or other hereditaments of such estate as they be seized of in trust for him at the time of the said execution sued; [2] which lands, tenements, rectories, tithes, rents and other hereditaments, by force and virtue of such execution, shall accordingly be held and enjoyed free and discharged from all incumbrances of such person or persons as shall be so seized or possessed in trust for the person against whom such execution shall be sued; [3] and if any *Cestuy que Trust* hereafter shall die, leaving a trust in fee-simple to descend to his heir, there and in every such case such trust shall be deemed and taken, and is hereby declared to be, assets by descent, and the heir shall be liable to and chargeable with the obligation of his ancestors for and by reason of such assets, as fully and amply as he might or ought to have been, if the estate in law had descended to him in possession in like manner as the trust descended; any law, custom or usage to the contrary in any wise notwithstanding. Lands, &c. shall be liable to the judgments, &c. of Cestuy que Trust. And held free from the incumbrances of the person seized in trust. Trust shall be assets in the hands of heirs. 2 Vern. 248. c 232.

XI. Provided always, that no heir that shall become chargeable by reason of any estate or trust made assets in his hands by this law, shall by reason of any kind of plea or confession of the action, or suffering judgment by *Nient dedire*, or any other matter, be chargeable to pay the condemnation out of his own estate; [2] but execution shall be sued of the whole estate so made assets in his hands by descent, in whose hands soever it shall come after the writ purchased, in the same manner as it is to be at and by the common law, where the heir at law pleading a true plea, judgment is prayed against him thereupon; any thing in this present Act contained to the contrary notwithstanding. No heir shall by reason thereof become chargeable of his own estate.

XII. And for the amendment of the law in the particulars following; [2] be it further enacted, that from henceforth any estate *pur auter vie* shall be devisable by a will in writing, signed by the party so devising the same, or by some other person in his presence and by his express directions, attested and subscribed in the presence of the devisor by 3 or more witnesses; [3] and if no such devise thereof be made, the same shall be chargeable in the hands of their heir, if it shall come to him by reason of a special occupancy, as assets by descent, as in case of lands in fee-simple; [4] and in case there be no special occupant thereof, it shall go to the Executors or administrators of the party that had the estate thereof by virtue of the grant, and shall be assets in their hands. Estates pur auter vie shall be devisable. And shall be assets in the heir's hand. And where there is no special occupant, shall go to the executors. Carthew 376. 2 Salk 464. 2 Vern. 719. c 307.

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XIII. And whereas it hath been found mischievous, that judgments in the King's courts at Westminster do many times relate to the 1st day of the term whereof they are entered, or to the day of the return of the original, or filing the bail, and bind the defendant's lands from that time, although in truth they were acknowledged or suffered and signed in the vacation-time after the said term, whereby many times purchasers find themselves aggrieved :

The day of signing any judgment shall be entered on the margin of the roll.

XIV. Be it enacted, that from and after the said 24th day of June any judge or officer of any of his Majesty's courts of Westminster, that shall sign any judgments, shall at the signing of the same, without fee for doing the same, set down the day of the month and year of his so doing, upon the paper book, docket or record which he shall sign ; which day of the month and year shall be also entered upon the margin of the roll record where the said judgment shall be entered.

And such judgments as against purchasers shall relate to such time only.

XV. And be it enacted, that such judgments as against purchasers *bona fide* for valuable consideration of lands, tenements or hereditaments to be charged thereby, shall in consideration of law be judgments only from such time as they shall be so signed, and shall not relate to the 1st day of the term whereof they are entered, or the day of the return of the original or filing the bail ; any law, usage or course of any court to the contrary notwithstanding.

Writs of execution shall bind the property of goods but from the time of their delivery to the officer.
1 Salk. 390.
Carthew 419.
1 Mode. 188.
2 Keb. 257.

XVI. And be it further enacted, that from and after the said 24th day of June no writ of *Fieri facias* or other writ of execution shall bind the property of the goods against whom such writ of execution is sued forth, but from the time that such writ shall be delivered to the sheriff, under-sheriff and coroners, to be executed : And for the better manifestation of the said time, the sheriff, under-sheriff and coroners, their deputies and agents, shall upon the receipt of any such writ, (without fee for doing the same) endorse upon the back thereof the day of the month or year whereon he or they received the same.

Contracts for sales of goods for £10 or more.
Thuan. Hist. lib. 39. §. 25.

XVII. And be it further enacted, that from and after the said 24th day of June no contract for the sale of any goods, wares and merchandises, for the price of £10 sterling or upwards, shall be allowed to be good, except the buyer shall accept part of the goods so sold, and actually receive the same, or give something in earnest to bind the bargain, or in part of payment, or that some note or memorandum in writing of the said bargain be made and signed by the parties to be charged by such contract, or their agents thereunto lawfully authorised.

The day of the enrolment of recognizances shall be set down, and lands in the hands of purchasers bound from that time only.

XVIII. And be it further enacted, that the day of the month and year of the enrolment of the recognizances shall be set down in the margin of the roll where the said recognizances are to be enrolled ; [2] and that from and after the said 24th day of June no recognizance shall bind any lands, tenements or hereditaments in the hands of any purchaser *bona fide* and for valuable consideration, but from the time of such enrolment ; any law, usage or course of any court to the contrary in any wise notwithstanding.

Nuncupative wills.
Explained by 4 Ann. c. 16. §. 14.

XIX. And for prevention of fraudulent practices in setting up nuncupative wills, which have been the occasion of much perjury ; [2] be it enacted, that from and after the aforesaid 24th day of June, no nuncupative will shall be good, where the estate thereby bequeathed shall exceed the value of £30, that is not proved by the oaths of 3 witnesses (at the least) that were present at the making thereof ; (3) nor unless it be proved that the testator at the time of pronouncing the same, did bid the persons present, or some of them, bear witness, that such was his will, or to that effect ; [4]

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nor unless such nuncupative will were made in the time of the last sickness of the deceased, and in the house of his or her habitation or dwelling, or where he or she hath been resident for the space of 10 days or more next before the making of such will, except where such person was surprised or taken sick, being from his own home, and died before he returned to the place of his or her dwelling.

XX. And be it further enacted, that after six months passed after the speaking of the pretended testamentary words, no testimony shall be received to prove any will nuncupative, except the said testimony, or the substance thereof, were committed to writing within 6 days after the making of the said will.

XXI. And no letters testamentary or probate of any nuncupative will shall pass the seal of any court, till 14 days at the least after the decease of the testator be fully expired; [2] nor shall any nuncupative will be at any time received to be proved, unless process have first issued to call in the widow, or next of kindred to the deceased, to the end they may contest the same, if they please. Probates of nuncupative wills.

XXII. And no will in writing concerning any goods or chattles, or personal estate, shall be repealed, nor shall any clause, devise or bequest therein, be altered or changed by any words or will by word of mouth only, except the same be in the life of the testator committed to writing, and after the writing thereof read unto the testator, and allowed by him, and proved to be so done by 3 witnesses at the least. Raymond 334.

XXIII. Provided always, that notwithstanding this Act, any soldier being in actual military service, or any mariner or seaman being at sea, may dispose of his moveables, wages and personal estate, as he or they might have done before the making of this Act. Soldiers and mariner's wills excepted. 22 & 23 Car. 2. c. 10.

XXV. And for the explaining one Act of this present Parliament, entitled an Act for the better settling of Intestates Estates; [2] be it declared, that neither the said Act, nor any thing therein contained, shall be construed to extend to the estates of feme covert that shall die intestate, but that their husbands may demand and have administration of their rights, credits, and other personal estates, and recover and enjoy the same, as they might have done before the making of the said Act. Husbands not compellable to make distribution of the personal estates of their wives. 1 Mod. 231.

An Act to enable Creditors to recover their debts of the Executors and Administrators of Executors in their own wrong. A.D. 1677. 30 C. 2. c. 7.

(This Statute is copied verbatim into the Probate and Executor Act of 1789)

WHEREAS, the executors and administrators of such persons who have possessed themselves of considerable personal estates of other dead persons, and converted the same to their own use, have no remedy by the rules of the common law, as it now stands, to pay the debts of those persons whose estate hath been so converted by their testator or intestate, which hath been found very mischievous, and many creditors defeated of their just debts, although their debtors left behind them sufficient to satisfy the same, with a great overplus. 3 Mod. 113.

II. For remedy whereof, be it enacted, that all and every the executors and administrators of any person or persons, who as executor or executors in his or their own wrong, or administrators, shall from and after the 1st day of August next ensuing waste or convert any goods, chattles, estate or assets of any person deceased, to their own use, shall be liable and chargeable in the same manner as their testator or intestate would have been if they had been living. 1 Jac. 2. c. 17. Enlarged by 4 & 5 W. & M. c. 24. §. 12.

A. D. 1712.

*English Statutes Made of Force.*A. D. 1685.
1 J. 2. c. 17.*An Act for Reviving and Continuance of several Acts of Parliament therein mentioned.*17 Car. 2. c. 8.
of avoiding
delays, and 22
& 23 Car. 2. c.
10. of distribu-
tion made per-
petual.Explanatory
clause in 29
Car. 2. c. 3.
§. 25 of 22 & 23
Car. 2. c. 10. of
distributions,
made perpet-
ual. 30 Car. 2.
stat. 1. c. 6.Administrator
compellable to
account only to
persons
interested.Brother and
sister shall
share equally
with the
mother.

V. Be it enacted, that 1 other Act made in the 17th year of his said late Majesty's reign, entitled an Act for avoiding unnecessary Suits and Delays; and also one other Act made in the 22d and 23d years of his late Majesty's reign, intituled an Act for the better settling Intestates Estates, (which said latter Act is explained by a clause in 1 other Act made in the 29th year of his said late Majesty's reign, intituled an Act for prevention of Frauds and Perjuries) both which said Acts, with the said clause, are continued by 1 other Act made in the 13th year of his said late Majesty's reign, intituled an Act for reviving both the said former Acts; all which said Acts and clauses shall be in force, and is hereby made perpetual.

VI. It is hereby enacted, that no administrator shall, from the 24th day of July next, be cited to any the courts in the said last Act mentioned, to render an account of the personal estate of his intestate (otherwise than by an inventory or inventories thereof) unless it be at the instance or prosecution of some person or persons in behalf of a minor, or having a demand out of such personal estate as a creditor or next of kin, nor be compellable to account before any the ordinaries or judges by the said last Act impowered and appointed to take the same, otherwise than is aforesaid; any thing in the said last Acts contained to the contrary notwithstanding.

VII. Provided also, that if after the death of a father, any of his children shall die intestate without wife or children, in the life time of the mother, every brother and sister, and the representatives of them, shall have an equal share with her; any thing in the last mentioned Acts to the contrary notwithstanding.

The rest of this Statute was not made of force.

A. D. 1688.
1 W. & M. c. 8.*An Act for the abrogating of the Oaths of Supremacy and Allegiance, and appointing other Oaths. (Superceded by the Constitution.)*A. D. 1690.
2 W. & M. c. 5.*An Act for enabling the Sale of Goods distrained for Rent, in case the Rent be not paid in a reasonable time.*

WHEREAS, the most ordinary and ready way for recovery of arrears of rent is by distress, yet such distresses not being to be sold, but only detained as pledges for enforcing the payment of such rent, the persons distraining have little benefit thereby; for the remedying whereof,

Goods distrain-
ed for rent may
be appraised
and sold.
Farther
provided
for by 8 Ann.
c. 14.

II. Be it enacted, that from and after the 1st day of June, in the year of our Lord 1690, that where any goods or chattles shall be distrained for any rent reserved and due upon any demise, lease, or contract whatsoever, and the tenant or owner of the goods so distrained shall not within 5 days next after such distress taken, and notice thereof (with the cause of such taking) left at the chief mansion-house, or other most notorious place on the premises charged with the rent distrained for, replevy the same, with sufficient security to be given to the sheriff according to law, that then in such case, after such distress and notice as aforesaid, and expiration of the said 5 days, the person distraining shall and may, with the sheriff or under sheriff of the county, or with the constable of the hundred, parish, or place where such distress shall be taken, (who are hereby required to be aiding and assisting therein) cause the goods and chattles so distrained to be appraised by two sworn appraisers (whom such sheriff, under-sheriff, or

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constable are hereby impowered to swear) to appraise the same truly, according to the best of their understandings; and after such appraisement, shall and may lawfully sell the goods and chattles so distrained for the best price can be gotten for the same, towards satisfaction of the rent for which the said goods and chattles shall be distrained, and of the charges of such distress, appraisement, and sale, leaving the overplus (if any) in the hands of the said sheriff, under sheriff, or constable, for the owner's use.

III. And whereas no sheaves or cocks of corn loose or in the straw, or hay in any barn, or granary, or on any hovel, stack, or rick, can by the law be distrained, or otherwise secured for rent, whereby landlords are often times couzened and deceived by their tenants, who sell their corn, grain and hay to strangers, and remove the same from the premises chargeable with such rent, and thereby avoid the payment of the same; be it further enacted, that for remedying the said practice and deceit, it shall and may, from and after the said 1st day of June, be lawful to and for any person or persons having rent arrear, and due upon any such demise, lease, or contract as aforesaid, to seize and secure any sheaves or cocks of corn, or corn loose or in the straw, or hay lying or being in any barn or granary, or upon any hovel, stack, or rick, or otherwise upon any part of the land or ground charged with such rent, and to lock up or detain the same in the place where the same shall be found, for or in the nature of a distress, until the same shall be replevied upon such security to be given as aforesaid; and in default of replevying the same as aforesaid, within the time aforesaid, to sell the same after such appraisement thereof to be made; so as nevertheless such corn, grain, or hay, so distrained as aforesaid, be not removed by the person or persons distraining, to the damage of the owner thereof, out of the place where the same shall be found, and seized, but be kept there (as impounded) until the same shall be replevied, or sold in default of replevying the same within the time aforesaid.

IV. And be it further enacted, that upon any pound-breach or rescous of goods or chattles distrained for rent, the person or persons grieved thereby shall, in a special action upon the case for the wrong thereby sustained, recover his and their treble damages and costs of suit against the offender or offenders in any such rescous or pound-breach, any or either of them, or against the owners of the goods distrained, in case the same be afterwards found to have come to his use or possession.

V. Provided, that in case any such distress and sale, as aforesaid, shall be made by virtue or colour of this present Act, for rent pretended to be arrear and due, where in truth no rent is arrear or due to the person or persons distraining, or to him or them in whose name or names, or right, such distress shall be taken as aforesaid, that then the owner of such goods or chattles distrained and sold as aforesaid, his executors or administrators, shall and may, by action of trespass, or upon the case, to be brought against the person or persons so distraining, any or either of them, his or their executors or administrators, recover double of the value of the goods or chattles so distrained and sold, together with full costs of suit.

An Act to take away Clergy from some offenders, and to bring others to Punishment. A. D. 1691.
3 & 4 W. & M.
c. 9.

FORASMUCH as divers wicked and ill disposed persons are encouraged to commit robberies upon men's persons, and in their houses, and

25 H. 8. c. 3.

A. D. 1713.

English Statutes Made of Force.

Any person
convict of
robbing a
dwelling house
wherein there
is any or no
person, &c. or
standing mute,
shall lose his
clergy.

other offences, by the privilege, as the law now is, of demanding the benefit of their clergy; be it therefore enacted, that all and every person or persons that shall at any time from and after the 1st day of March, in the year of our Lord 1691, rob any other person, or shall feloniously take away any goods or chattles, being in any dwelling-house, the owner or any other person being therein, and put in fear, or shall rob any dwelling-house in the day time, any person being therein, or shall comfort, aid, abet, assist, counsel, hire, or command any person or persons to commit any of the said offences, or to break any dwelling-house, shop, or warehouse, thereunto belonging, or therewith used, in the day time, and feloniously take away any money, goods, or chattle, of the value of 5s. or upwards, therein being; although no person shall be within such dwelling-house, shop, or ware-house, or shall counsel, hire, or command any person to commit any burglary, being thereof convicted or attainted, or being indicted thereof shall stand mute, or will not directly answer to the indictment, or shall peremptorily challenge above the number of 20 persons returned to be of the jury, shall not have the benefit of his or their clergy.

Persons indicted
for a crime,
of which being
convict they
would not have
their clergy, if
they stand
mute, &c. shall
not have it.

II. And if any person or persons whatsoever be indicted of any offence, for which, by virtue of any former statute, he or they are excluded from having the benefit of his or their clergy, if he or they had been thereof convicted by verdict or confession; if he or they stand mute, or will not answer directly to the felony, or shall challenge peremptorily above the number of 20 persons returned to be of the Jury, or shall be outlawed thereupon, shall not be admitted to the benefit of his or their clergy.

Persons indicted
of a crime as
above, in a
wrong county,
if they stand
mute, &c. shall
not have it.
3 Haw. P. C.
ch. 32.

III. And if any person or persons hereafter be indicted of felony for stealing of any goods or chattel in any county within this realm of England, dominion of Wales, or town of Berwick upon Tweed, and thereof be convicted or attainted, or upon his or their arraignment shall stand mute, or will not directly answer to the indictment, or shall challenge peremptorily above the number of 20 persons returned to be of the jury, he or they shall be totally excluded from having the benefit of his or their clergy, if it appear upon evidence or examination before the justices, that the said goods or chattel were taken by robbery or burglary, or in any other manner, in any other county, whereof if such person or persons had been convicted by a jury of the said other county, he or they are excluded, by virtue of this or any other Act, from having the benefit of his or their clergy.

Buyers of
stolen goods
reputed acces-
saries to felony.
See farther
concerning
accessaries and
receivers of
stolen goods, 1
Ann. stat. 2. c.
9. A. A 23 Aug.
1769.

IV. And forasmuch as thieves and robbers are much encouraged to commit such offences, because a great number of persons make it their trade and business to deal in the buying of stolen goods; be it therefore enacted, that if any person or persons shall buy or receive any goods or chattel that shall be feloniously taken or stolen from any other person, knowing the same to be stolen, he or they shall be taken and deemed an accessory or accessaries to such felony after the fact, and shall incur the same punishment as an accessory or accessaries to the felony after the felony committed.

Stealing goods
from lodgings
felony.

V. And whereas it is a frequent practice for idle and disorderly persons to hire lodgings with an intent to have an opportunity to take away, imbezil, or purloin the goods and furniture being in such lodgings; be it therefore enacted, that if any person or persons shall take away, with an intent to steal, imbezil, or purloin any chattel, bedding, or furniture, which by contract or agreement he or they are to use, or shall be let to him or them to use, in or with such lodging, such taking, imbezilling, or

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purloining, shall be to all intents and purposes taken, reputed and adjudged to be larceny and felony, and the offender shall suffer as in case of felony.

VI. And whereas by the law of this realm, women convicted of felony for stealing of goods and chattel of the value of 10s. and upwards, and for other felonies, where a man is to have the benefit of his clergy, are to suffer death; be it therefore enacted, that where a man being convicted of any felony for which he may demand the benefit of his clergy, if a woman be convicted for the same or like offence, upon her prayer to have the benefit of this statute, judgment of death shall not be given against her upon such conviction, or execution awarded upon any outlawry for such offence, but shall suffer the same punishment as a man should suffer that has the benefit of his clergy allowed him in the like case; that is to say, shall be burnt in the hand by the gaoler in open court, and further be kept in prison for such time as the justices in their discretion shall think fit, so as the same do not exceed one year's imprisonment.

VII. And forasmuch as such men who have once had their clergy, and such women who shall have once the benefit of this statute, may happen to be indicted for an offence committed afterwards in some other county; be it therefore enacted, that the clerk of the crown, clerk of the peace, clerk of the assizes, where such man or woman shall be convicted, shall at the request of the prosecutor, or any other in their majesties behalf, certify a transcript, briefly and in few words containing the effect and tenor of every indictment and conviction of such man or woman, of his having the benefit of the clergy, or her having the benefit of this statute, and addition of every such person or persons, and the certainty of the felony and conviction, to the judges and justices in such other county, where such man or woman shall be indicted, which certificate being produced in court, shall be a sufficient proof that such man hath before had the benefit of his clergy, and that such woman hath had the benefit of this statute.

*An Act for the Relief of Creditors against Fraudulent Devises.*3 & 4 W. & M.
c. 14.

WHEREAS, it is not reasonable or just, that by the practice or contrivance of any debtors, their creditors should be defrauded of their just debts; and nevertheless it hath often so happened, that where several persons having by bonds or other specialties bound themselves and their heirs, and have afterwards died seized in fee-simple of and in manors, messuages, lands, tenements, and hereditaments, or had power or authority to dispose of or charge the same by their wills or testaments, have to the defrauding of such their creditors, by their last wills or testaments devised the same, or disposed thereof in such manner as such creditors have lost their said debts: For remedying of which, and for the maintenance of just and upright dealing,

II. Be it enacted, That all wills and testaments, limitations, dispositions or appointments, of or concerning any manors, messuages, lands, tenements, or hereditaments, or of any rent, profit, term, or charge out of the same, whereof any person or persons, at the time of his, her, or their decease, shall be seized in fee-simple, in possession, reversion or remainder, or have power to dispose of the same, by his, her, or their last wills and testaments, to be made after the 25th day of March, in the year of our Lord God 1692, shall be deemed and taken (only as against such creditor or

Women con-
vict of crimes
for which men
have their
clergy, upon
prayer, punish-
ed as men.

Where a
person has had
his clergy in
another coun-
ty, the clerk of
the Crown, &c.
shall certify it.

Wills fraudu-
lent against
creditors.

A. D. 1712.

English Statutes Made of Force.

Vin. V. 13, 521.

creditors as aforesaid, his, her, and their heirs, successors, executors, administrators, and assigns, and every of them) to be fraudulent, and clearly, absolutely, and utterly void, frustrate, and of none effect; any pretence, colour, feigned or presumed consideration, or any other matter or thing to the contrary notwithstanding.

Debt upon bond jointly sueable against the heir and devisees of an obligor. Devisee chargeable for a false plea, as an heir.

III. And for the means that such creditors may be enabled to recover their said debts, be it further enacted, That in the cases before mentioned, every such creditor shall and may have and maintain his, her, and their action and actions of debt, upon his, her and their said bonds and specialties, against the heir and heirs at law of such obligor and obligors, and such devisee and devisees, jointly by virtue of this Act; and such devisee or devisees shall be liable and chargeable for a false plea by him or them pleaded, in the same manner as any heir should have been for any false plea by him pleaded, or for not confessing the lands and tenements to him descended.

Devisee for raising portions pursuant to a marriage contract, good.

IV. Provided, that where there hath been or shall be any limitation or appointment, devise or disposition, of or concerning any manors, messuages, lands, tenements or hereditaments, for the raising or payment of any real and just debt or debts, or any portion or portions, sum or sums of money, for any child or children of any person, other than the heir at law, according to, or in pursuance of any marriage contract or agreement in writing *bona fide* made before such marriage, the same and every of them shall be in full force; and the same manors, messuages, lands, tenements, and hereditaments, shall and may be holden and enjoyed by every such person or persons, his, her, and their heirs, executors, administrators, and assigns, for whom the said limitation, appointment, devise, or disposition was made, and by his, her and their trustee or trustees, his, her, and their heirs, executors, administrators, and assigns, for such estate or interest as shall be so limited or appointed, devised or disposed, until such debt or debts, portion or portions, shall be raised, paid, and satisfied; any thing in this Act contained to the contrary notwithstanding.

If the heir alien before action brought, he shall be liable to the value of the land.

V. And whereas several persons being heirs at law, to avoid the payment of such just debts, as in regard of the lands, tenements and hereditaments descending to them they have by law been liable to pay, have sold, aliened, or made over such lands, tenements, or hereditaments, before any process was or could be issued against them; Be it further enacted, That in all cases where any heir at law shall be liable to pay the debt of his ancestor in regard of any lands, tenements, or hereditaments, descending to him, and shall sell, aliene, or make over the same, before any action brought, or process sued out against him, that such heir at law shall be answerable for such debt or debts, in an action or actions of debt, to the value of the said land so by him sold, aliened, or made over; in which cases all creditors shall be preferred, as in actions against executors and administrators, and such execution shall be taken out upon any judgment or judgments so obtained against such heir, to the value of the said land, as if the same were his own proper debt or debts; saving that the lands, tenements and hereditaments *bona fide* aliened before the action brought, shall not be liable to such execution.

Creditors preferred, as in actions against executors.

Upon Riens per descent pleaded, Jury shall enquire of the value of the lands.

VI. Provided, That where any action of debt upon any specialty is brought against any heir, he may plead *riens per descent*, at the time of the original writ brought, or the bill filed against him; any thing herein contained to the contrary notwithstanding; and the plaintiff in such action may reply, that he had lands, tenements or hereditaments, from

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his ancestor, before the original writ brought, or bill filed; and if upon issue joined thereupon, it be found for the plaintiff, the jury shall enquire of the value of the lands, tenements, or hereditaments, so descended, and thereupon judgment shall be given, and execution shall be awarded as aforesaid: but if judgment be given against such heir by confession of the action, without confessing the assets descended, or upon demurrer, or *nihil dicit*, it shall be for the debt and damages, without any writ to enquire of the lands, tenements or hereditaments so descended.

Otherwise if judgment by confession, for debt and damages. Carthew 353, 354.

VII. Provided also, and be it further enacted, That all and every devisee, and devisees, made liable by this Act, shall be liable and chargeable in the same manner as the heir at law by force of this Act, notwithstanding the lands, tenements, and hereditaments, to him or them devised, shall be aliened before the action brought.

Devisee chargeable as heir.

An Act to prevent Frauds by Clandestine Mortgages.

(See A. A. 8th October, 1698.)

A. D. 1692.
4 & 5 W. & M.
c. 16.

WHEREAS, great frauds and deceits are too often practised by necessitous and evil-disposed persons in borrowing of money, and giving judgments, statutes, and recognizances privately, for securing the repayment of the said money, and the same persons do afterwards borrow money upon security of their lands of other persons, and do not acquaint the latter lender thereof with the same, whereby such late lender is very often in danger to lose his whole money, or forced to pay off the debts secured by the said judgments, statutes, and recognizances, before they can have any benefit of the said mortgages. And whereas divers persons do many times mortgage their lands more than once, without giving notice of their first mortgage, whereby lenders of money upon second or after mortgages do often lose their money, and are put to great charges in suits and otherwise: For remedy whereof, and preventing the same as much as may be for the future,

II. Be it enacted, That if any person or persons, from and after the 1st day of May which shall be in the year of our Lord 1693, shall borrow any money, or for other valuable consideration, for the payment thereof, voluntarily give, acknowledge, permit, or suffer to be entered, against him or them, one or more judgment or judgments, statute or statutes, recognizance or recognizances, to any person or persons, creditor or creditors; and if the said borrower or borrowers, debtor or debtors, shall afterwards take up or borrow any other sum or sums of money of any other person or persons, or for other valuable consideration become indebted to such person or persons, and for securing the repayment and discharge thereof, shall mortgage his, her, or their lands and tenements, or any part thereof, to the said second or other lender or lenders of the said money, creditor or creditors, or to any other person or persons in trust for, or to the use of, such second, or other lender or lenders, creditor or creditors, and shall not give notice to the said mortgagee or mortgagees of the said judgment or judgments, statute or statutes, recognizance or recognizances, in writing, under his, her or their hand or hands, before the execution of the said mortgage or mortgages; unless such mortgager or mortgagers, his, her, or their heirs, upon notice to him, her, or them, given by the mortgagee or mortgagees of the said lands and

Debtor upon judgment, &c. taking up money of another upon a mortgage, without notice of the judgment to the Mortgagee, shall lose his equity to redeem.

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tenements, his, her, or their heirs, executors, administrators, or assigns, in writing under his, her, or their hands and seals, attested by two or more sufficient witnesses, of any such former judgment or judgments, statute or statutes, recognizance or recognizances, shall within 6 months pay off and discharge the said judgment or judgments, statute or statutes, recognizance or recognizances, and all interest and charges due thereupon, and cause or procure the same to be vacated or discharged by record: That then the mortgager or mortgagers of the said lands and tenements, his, her, or their heirs, executors, administrators or assigns, shall have no benefit or remedy against the said mortgagee or mortgagees, his, her, or their heirs, executors, administrators, or assigns, or any of them, in equity or elsewhere, for redemption of the said lands and tenements, or any part thereof; but the said mortgagee or mortgagees, his, her, or their heirs, executors, administrators, and assigns, shall and may hold and enjoy the said lands and tenements for such estate and term therein, as were or was granted and settled to the said mortgagee or mortgagees, against the said mortgager or mortgagers, and all person and persons lawfully claiming from, by, or under him, her, or them, freed from equity of redemption, and as fully to all intents and purposes whatsoever, as if the same had been purchased absolutely and without any power or liberty of redemption.

Person mortgaging twice without notice of the first mortgage, loses his equity.
2 Vern. 589, 590.

III. And if any person or persons, who have or hath once mortgaged, or from and after the said 1st day of May shall mortgage, any lands or tenements, to any person or persons, for security of money lent, or otherwise accrued or become due, or for other valuable considerations; and if the said mortgager or mortgagers shall again mortgage the same lands or tenements, or any part thereof, to any other person or persons for valuable considerations (the said former mortgage being in force and not discharged) and shall not discover to the said second or other mortgagee or mortgagees, or some or one of them, the former mortgage or mortgages, in writing under his or their hands; That then and in those cases also, the said mortgager or mortgagers, his, her, or their heirs, executors, administrators, or assigns, shall have no relief or equity of redemption against the said second or after mortgagee or mortgagees, his, her or their heirs, executors, administrators, or assigns, upon the said after mortgage or mortgages, but that such mortgagee or mortgagees, his, her, or their heirs, executors, administrators, and assigns, shall and may hold and enjoy such more than once mortgaged lands and tenements, for such estate and term therein, as were or was granted and conveyed by the said mortgager or mortgagers, against him, her, or them, his, her, or their heirs, executors, or administrators respectively, freed from equity of redemption, and as fully to all intents and purposes, as if the same had been an absolute purchase, and without any power or liberty of redemption.

Under mortgages may redeem.

IV. Provided nevertheless, if it so happen there be more than one mortgage at the same time made by any person or persons, to any person or persons, of the same lands and tenements, the several late or under mortgagees, his, her, or their heirs, executors, administrators, or assigns, shall have power to redeem any former mortgage or mortgages, upon payment of the principal debt, interest, and costs of suit, to the prior mortgagee or mortgagees, his, her, or their heirs, executors, administrators, or assigns: any thing herein contained to the contrary thereof in any wise notwithstanding.

V. Provided always, That nothing in this Act contained shall be construed, deemed, or extended, to bar any widow of any mortgager of lands

Dower saved.

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or tenements from her dower and right in or to the said lands, who did not legally join with her husband in such mortgage, or otherwise lawfully bar or exclude herself from such her dower or right.

*An Act for delivering Declarations to Prisoners.*4 & 5 W. & M.
c. 21.

WHEREAS, by the course of practice in the respective courts of record at Westminster, after the plaintiff or plaintiffs, in any writ issued out of any of the said courts, have been at great charge to arrest the defendant or defendants upon such writ, and the defendant or defendants, for want of sufficient bail, are often committed to gaol, and unless the plaintiff or plaintiffs shall, before the end of two terms, next after such arrest, cause such defendant or defendants, by writ of *habeas corpus*, to be removed, to be charged in the said respective courts with declarations, of the cause of such action or actions, such prisoner or prisoners are upon a common bail or appearance by attorney discharged from their imprisonment, to the great prejudice of the plaintiffs: For remedy whereof,

II. Be it enacted, That if now, or at any time after the 25th day of March, 1693, any defendant or defendants be taken or charged in custody at the suit of any person or persons, upon any writ or writs out of any of the said courts at Westminster, and imprisoned or detained in prison for want of sureties for their appearance to the same, the plaintiff or plaintiffs, in such writ or writs, shall and may, by virtue of this Act, before the end of the next term after such writ or process shall be returnable, declare against such prisoner or prisoners in the respective court or courts out of which the writ or writs shall issue, whereupon the said prisoner or prisoners shall be taken and imprisoned or charged in custody, and shall or may cause a true copy thereof to be delivered to such prisoner or prisoners, or to the gaoler or keeper of the prison, or gaoler in whose custody such prisoner shall be or remain: To which declaration or declarations the said prisoner or prisoners shall appear and plead; and if such prisoner or prisoners shall not appear and plead to the same, the plaintiff or plaintiffs in such cases shall have judgment in such manner as if the prisoner or prisoners had appeared in the said respective courts, and refused to answer or plead to such declaration.

III. And in all declarations against any prisoner or prisoners detained in prison by virtue of any writ or process issued or to be issued out of the court of King's bench, it shall be alledged, in custody of what sheriff, bailiff, or steward of any franchise, or other person having the return and execution of writs, such prisoner or prisoners shall be at the time of such declaration, by virtue of the process of the said court at the suit of the plaintiffs: Which allegation shall be as good and effectual to all intents and purposes, as if such prisoner or prisoners were in the custody of the Marshal of the Marshalsea of our Sovereign Lord and Lady, the King and Queen.

*An Act for the more effectual Suppressing Prophane Cursing and Swearing.*A. D. 1695.
6 & 7 W. 3.
c. 11.

WHEREAS, it is found by experience, that an Act of Parliament made in the 21st year of the reign of King James the First, entitled, An Act to prevent and reform Prophane Swearing and Cursing, hath proved

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The forfeitures
of several de-
grees of persons
for swearing.
Mod. cases in
law, 53, 366.

ineffectual to the suppressing of those detestable sins, by reason of some deficiencies in the said Act; be it therefore enacted, That if any person or persons shall (after the 24th day of June, in the year of our Lord 1695) prophanely swear or curse in the presence or hearing of any justice of peace of the county, riding, or division, or of the mayor or other head officer, or justice of peace for any city or town corporate, where such offence is or shall be committed, or that shall be thereof convicted by oath of one witness, or by the confession of the party offending, before any justice of peace of the county, or mayor, or bailiff, or other chief officer or justice of the peace of such city or town corporate, where the said offence shall be committed; that then for every such offence, the party so offending shall forfeit and pay to the use of the poor of the parish where such offence or offences shall be committed, the respective sums herein after mentioned, that is to say, every servant, day labourer, common soldier and common seaman, 1s. and every other person 2s. and in case any of the persons aforesaid shall after conviction offend a second time, such person shall forfeit and pay double; and if a third time, treble the sum respectively by him or her to be paid for the first offence.

To be levied
by distress.

If no distress,
offender to be
put in the
stocks.

II. And upon neglect or refusal of payment of the said forfeiture, any justice of peace of the county, riding, or division, or mayor or other head officer, or justice of peace, of any city or town corporate, where the said offences shall be committed, shall and are hereby authorised and required to direct and send his warrant to the constable, tything man, church-warden or overseer of the poor of the parish where the offence shall be committed, or where the offender shall inhabit, thereby commanding them, or some one or more of them, to levy, by distress and sale of the goods of the offender, the sum so forfeited, for the use of the poor of the parish as aforesaid; and in case no such distress can be had, then every such offender, being above the age of 16 years, shall, by warrant under the hand and seal of the said justice of peace, or other officer as aforesaid, be publicly set in the stocks for the space of 1 hour for every single offence, and for any number of offences whereof he shall be convicted at one and the same time, then 2 hours; and if the party offending be under the age of 16 years, and shall not forthwith pay the said forfeitures, then he or she shall, by warrant as aforesaid, be whipped by the constable, or by the parent, guardian or master of such offender, in the presence of the constable.

£5 penalty for
justice of peace
not executing
the Act.

III. And if any justice of the peace, or chief magistrate, shall wilfully and wittingly omit the performance of his duty in the execution of this Act, he shall forfeit the sum of £5, the one moiety to the use of the informer, to be recovered by action, suit, bill or plaint, in any of his Majesty's courts at Westminster, wherein no essoin, protection, or wager of law, shall be allowed, nor any more than one imparlance.

Officer sued for
executing this
Act, may plead
general issue,
&c.

IV. And if any action or suit shall be commenced or brought against any justice of peace, constable or other officer or person whatsoever, for doing or causing to be done any thing in pursuance of this Act, concerning the said offences, the defendant in such action may plead the general issue, and give the special matter in evidence; and if upon such action verdict be given for the defendant, or the plaintiff become nonsuit, or discontinue his action, then the defendant shall have treble costs.

Time for pro-
secuting upon
this Act.

V. Provided always, and it is hereby enacted, That no person shall be prosecuted or troubled for any offence against this statute, unless the same be proved or prosecuted within 10 days next after the offence committed.

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VI. And it is further enacted by the authority aforesaid, That this Act shall be publicly read four several times in the year in all parish churches, and all public chapels, by the parson, vicar or curate of the respective parishes or chapels, immediately after morning prayer, on 4 several Sundays, that is to say, the Sunday next after the 24th day of June, the 29th day of September, the 25th day of December, and the 25th day of March, under the pain of 20s. for every such omission or neglect.

To be read in churches, &c.

VII. And be it further enacted by the authority aforesaid, That the justices of peace, mayor, or other head officer, shall register in a book to be kept for that purpose, all the convictions made before him upon this Act, and the time of making thereof, and for what offence, and shall certify the same to the next general quarter sessions of the peace for the said county or place where the offences are committed, to be kept there upon record by the respective clerks of the peace, to be seen without fee or reward.

Convictions to be registered.

An Act for regulating of Trials in Cases of Treason and Misprision of 7 W. 3. c. 3.
Treason.

(See 43d and 44th section of Jury Law, 20th August, 1731, and Sedition Act, 11th April, 1776.)

WHEREAS, nothing is more just and reasonable, than that persons prosecuted for high treason and misprision of treason, whereby the liberties, lives, honour, estates, blood, and posterity of the subjects, may be lost and destroyed, should be justly and equally tried, and that persons accused as offenders therein should not be debarred of all just and equal means for defence of their innocencies in such cases; in order thereunto, and for the better regulation of trials of persons prosecuted for high treason and misprision of such treason, be it enacted by the King's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and the commons, in this present parliament assembled, and by the authority of the same, That from and after the 25th day of March, in the year of our Lord 1696, all and every person and persons whatsoever, that shall be accused and indicted for high treason, whereby any corruption of blood may or shall be made to any such offender or offenders, or to any the heir or heirs of any such offender or offenders, or for misprision of such treason, shall have a true copy of the whole indictment, but not the names of the witnesses, delivered unto them, or any of them, five days at the least before he or they shall be tried, for the same, whereby to enable them, and any of them respectively, to advise with counsel thereupon, to plead and make their defence, his or their attorney or attorneys, agent or agents, or any of them, requiring the same, and paying the officer his reasonable fees for writing thereof, not exceeding 5s. for the copy of every such indictment; and that every such person so accused and indicted, arraigned or tried for any such treason, as aforesaid, or for misprision of such treason, from and after the said time, shall be received and admitted to make his and their full defence, by counsel learned in the law, and to make any proof that he or they can produce by lawful witness or witnesses, who shall then be upon oath, for his and their just defence in that behalf; and in case any person or persons so accused or indicted shall desire counsel, the court before whom such person or persons shall be tried, or some judge of that court, shall and is hereby authorized and required immediately, upon his or their request, to assign to such person and persons such

25 Ed. 3. stat. 5. c. 2.

From the 25th of March, 1696, persons indicted for high treason to have a copy of the indictment 5 days before trial, paying for the same—7 Ann. c. 21. § 11—and to make their defence by counsel, and witnesses on oath.

Court authorized to assign counsel.

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and so many counsel, not exceeding two, as the person or persons shall desire, to whom such counsel shall have free access at all seasonable hours; any law or usage to the contrary notwithstanding.

No person to be tried for high treason, but on the oath of 2 witnesses.

II. And be it further enacted, That from and after the said 25th day of March, in the year of our Lord 1696, no person or persons whatsoever shall be indicted, tried, or attainted, of high treason, whereby any corruption of blood may or shall be made to any such offender or offenders, or to any the heir or heirs of any such offender or offenders, or of misprision of such treason, but by and upon the oaths and testimony of two lawful witnesses, either both of them to the same overt act, or one of them to one, and the other of them to another overt act of the same treason; unless the party indicted, and arraigned, or tried, shall willingly, without violence, in open court, confess the same, or shall stand mute, or refuse to plead, or in cases of high treason shall peremptorily challenge above the number of 35 of the jury; any law, statute, or usage, to the contrary notwithstanding.

Persons indicted may be outlawed, but have benefit of this Act.

III. Provided always, That any person or persons, being indicted, as aforesaid, for any of the treasons, or misprisions of the treasons aforesaid, may be outlawed, and thereby attainted of or for any of the said offences of treason, or misprision of treason; and in cases of the high treasons aforesaid, where by the law, after such outlawry the party outlawed may come in, and be tried, he shall, upon such trial, have the benefit of this Act.

One witness to 1 treason, and another to another, not to be deemed two witnesses.

IV. And be it further enacted and declared by the authority aforesaid, That if two or more distinct treasons of divers heads or kinds shall be alleged in one bill of indictment, one witness produced to prove one of the said treasons, and another witness produced to prove another of the said treasons, shall not be deemed or taken to be two witnesses to the same treason, within the meaning of this Act.

No person to be indicted for treason, unless within 3 years after offence.

V. And to the intent that the terror and dread of such criminal accusations may in some reasonable time be removed, be it further enacted by the authority aforesaid, That from and after the said 25th day of March, in the year of our Lord 1696, no person or persons whatsoever shall be indicted, tried or prosecuted, for any such treason as aforesaid, or for misprision of such treason, that shall be committed or done within the kingdom of England, dominion of Wales, or town of Berwick upon Tweed, after the said 25th day of March, in the year of our Lord 1696, unless the same indictment be found by a grand jury within three years next after the treason or offence done or committed.

No prosecution unless indicted within 3 years.

VI. And that no person or persons shall be prosecuted for any such treason, or misprision of such treason, committed or done, or to be committed or done, within the kingdom of England, dominion of Wales, or town of Berwick upon Tweed, before the said 25th day of March; unless he or they shall be indicted thereof within three years after the said 25th day of March; always provided and excepted, That if any person or persons whatsoever, shall be guilty of designing, endeavouring or attempting, any assassination on the body of the King, by poison or otherwise, such person or persons may be prosecuted at any time, notwithstanding the aforesaid limitation.

Exception.

VII. And that all and every person or persons, who shall be accused, indicted, and tried for such treason as aforesaid, or for misprision of such treason, after the said 25th day of March, in the year of our Lord 1696, shall have copies of the panel of the jurors who are to try them, duly

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returned by the sheriff, and delivered unto them and every of them so accused and indicted respectively, two days at the least before he or they shall be tried for the same; and that all persons so accused and indicted for any such treason as aforesaid, shall have the like process of the court where they shall be tried, to compel their witnesses to appear for them at any such trial or trials, as is usually granted to compel witnesses to appear against them.

Persons tried to have copies of the panel two days before trial.
Process of the Court to compel witnesses to appear.

VIII. And be it further enacted, That no evidence shall be admitted or given of any overt act that is not expressly laid in the indictment, against any person or persons whatsoever.

No evidence of acts not laid in the indictment.

IX. Provided also, and be it enacted by the authority aforesaid, That no indictment for any of the offences aforesaid, nor any process or return thereupon, shall be quashed on the motion of the prisoner, or his counsel, for mis-writing, or mis-spelling, false or improper Latin, unless exception concerning the same be taken and made in the respective court where such trial shall be, by the prisoner or his counsel assigned, before any evidence given in open court upon such indictment; nor shall any such mis-writing, mis-spelling, false or improper Latin, after conviction on such indictment, be any cause to stay or arrest judgment thereupon: But nevertheless any judgment given upon such indictment, shall and may be liable to be reversed upon a writ of error, in the same manner, and no other, than as if this Act had not been made.

No indictment to be quashed for mis-writing, &c. unless exception be made before evidence given. And not to stay judgment.

X. And whereas, by the good laws of this kingdom, in cases of trials of commoners for their lives, a jury of 12 freeholders must all agree in one opinion before they can bring a verdict, either for acquittal or condemnation of the prisoner:

Jury of twelve freeholders.

XI. And whereas, upon the trial of peers or peeresses, a major vote is sufficient, either to acquit or condemn; be it further enacted by the authority aforesaid, That upon the trial of any peer or peeress, either for treason or misprision, all the peers who have a right to sit and vote in parliament shall be duly summoned, 20 days at least before every such trial, to appear at every such trial; and that every peer so summoned and appearing at such trial, shall vote in the trial of such peer or peeress so to be tried, every such peer first taking the oaths mentioned in an act of parliament made in the first year of the reign of King William and Queen Mary, entitled, An Act for abrogating the Oaths of Supremacy and Allegiance, and appointing other Oaths; and also every such peer subscribing and audibly repeating the declaration mentioned in An Act for the more effectual preserving the King's person and government, by disabling Papists from sitting in either house of Parliament, and made in the 30th year of the reign of King Charles the Second.

Peers to be summoned twenty days before trial; and shall take the oaths, &c. 1 W. & M. s. 1. c. 8. 30 Car.2. stat.2. c. 1.

XII. Provided always, that neither this Act, nor any thing therein contained, shall any ways extend to, or be construed to extend to any impeachment or other proceedings in parliament, in any kind whatsoever.

Act not to extend to any impeachment in Parliament.

XIII. Provided also, That this Act, nor any thing therein contained, shall any ways extend to any indictment of high treason, nor to any proceedings thereupon, for counterfeiting his Majesty's coin, his great seal, or privy seal, his sign manual, or privy signet. [The benefit hereof is extended by 2 & 3 Ann, cap. 20, § 43, to treasons within that Act.]

20 Geo. 2. c. 30. Nor to counterfeiting the coin, &c.

Farther provisions concerning Treason, 9 W. 3. c. 1. 13 W. 3. c. 3 & 6. 1 Ann. stat. 2. c. 17. 2 & 3 Ann. c. 20. 4 Ann, c. 8. 6 Ann, c. 7. 7 Ann, c. 21. 1 Geo. 1, stat. 2, c. 33. 17 Geo. 2, c. 39. 19 Geo. 2, c. 9. 20 Geo. 2. c. 30 and 46.

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A. D. 1696.
7 & 8 W. 3. c. 24.

An Act requiring the Practisers of Law to take the Oaths, and subscribe the Declaration therein mentioned.

A. D. 1699.
10 & 11 W. 3.
c. 16.

An Act to enable posthumous Children to take Estates as if born in their Father's Life-time.

Vin. V. 18. 403.
Estates limited
in remainder to
the lawful issue
of the body of
any person—
son or daughter
born after
the decease of
the father, may
take such estate
as if born in his
life-time, &c.
although there
be no limitation
to Trustees, &c.

WHEREAS, it often happens, that by marriage and other settlements, estates are limited in remainder to the use of the sons and daughters, the issue of such marriage, with remainders over, without limiting an estate to trustees to preserve the contingent remainders limited to such sons and daughters, by which means such sons and daughters, if they happen to be born after the decease of their father, are in danger to be defeated of their remainder by the next in remainder after them, and left unprovided for by such settlements, contrary to the intent of the parties that made those settlements: Be it enacted, That where any estate already is or shall hereafter, by any marriage or other settlement, be limited in remainder to, or to the use of the first or other son or sons of the body of any person lawfully begotten, with any remainder or remainders over to, or to the use of any other person or persons, or in remainder to, or to the use of a daughter or daughters lawfully begotten, with any remainder or remainders to any other person or persons, that any son or sons, or daughter or daughters, of such person or persons lawfully begotten or to be begotten, that shall be born after the decease of his, her or their father, shall and may, by virtue of such settlement, take such estate so limited to the first and other sons, or to the daughter or daughters, in the same manner as if born in the life-time of his, her, or their father, although there shall happen no estate to be limited to trustees, after the decease of the father, to preserve the contingent remainder to such afterborn son or sons, daughter or daughters, until he, she, or they come *in esse*, or are born, to take the same; any law or usage to the contrary in any wise notwithstanding.

Proviso.

II. Provided always, That nothing in this Act shall extend or be construed to extend to divest any estate in remainder, that by virtue of any marriage or other settlement, is already come to the possession of any person or persons, or to whom any right is accrued, though not in actual possession, by reason or means of any afterborn son or sons, or daughter or daughters, not happening to be born in the life-time of his, her, or their father.

A. D. 1700.
11 & 12 W. 3.
c. 6.

An Act to enable his Majesty's natural-born Subjects to inherit the Estate of their Ancestors, either lineal or collateral, notwithstanding their Father or Mother were Aliens.

King's natural
born subjects
shall inherit as
heirs to any
honors, manors,
&c. though the
parents were
born out of the
king's domin-
ions, &c.

WHEREAS, divers persons, born within the King's dominions, are disabled to inherit and make their titles by descent from their ancestors, by reason that their fathers or mothers, or some other ancestor (by whom they are to derive their descent) was an alien, and not born within the King's dominions; for remedy whereof, be it enacted, That all and every person or persons, being the King's natural born subject or subjects within any of the King's realms or dominions, shall and may hereafter lawfully inherit and be inheritable as heir or heirs to any honours, manors, lands, tenements or hereditaments, and make their pedigrees and titles by descent

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from any of their ancestors lineal or collateral, although the father and mother, or fathers or mothers, or other ancestors of such person or persons, by, from, through, or under whom he, she, or they shall or may make or derive their title or pedigree, were or was, or is or are, or shall be born out of the King's allegiance, and out of his majesty's realms and dominions, as freely, fully, and effectually, to all intents and purposes, as if such father or mother, or fathers or mothers, or other ancestor or ancestors, by, from, through, or under whom he, she, or they shall or may make or derive their title or pedigree, had been naturalized, or natural-born subject or subjects within the King's dominions; any law or custom to the contrary notwithstanding.

An Act to declare the alterations in the Oath appointed to be taken by 1 Ann. st. 1. c. 22.
13 W. 3. c. 6.

An Act for punishing of Accessories to Felonies, and Receivers of stolen Goods, and to prevent the wilful burning and destroying of Ships. A. D 1701.
1 Ann st. 2 c. 9.

FORASMUCH as the counsellors and contrivers of theft and other felonies, and the receivers of goods that have been stolen, are the principal cause of the commission of such felonies; and as the law now is, no accessory can be convicted or suffer any punishment where the principal is not attainted, or hath the benefit of his clergy; be it therefore enacted, that from and after the 12th day of February, which shall be in the year of our Lord 1702, if any principal offender shall be convicted of any felony, or shall stand mute, or peremptorily challenge above the number of twenty persons returned to serve of the jury, it shall and may be lawful to proceed against any accessory, either before or after the fact, in the same manner as if such principal felon had been attainted thereof, notwithstanding any such principal felon shall be admitted to the benefit of his clergy, pardoned, or otherwise delivered before attainder; and every such accessory shall suffer the same punishment, if he or she be convicted, or shall stand mute, or peremptorily challenge above the number of 20 persons returned to serve of the jury, as he or she should have suffered if the principal had been attainted.

II. And forasmuch as buyers and receivers of stolen goods do oftentimes convey away and conceal the principal felons, so that they cannot be convicted of such principal felony, and thereby such buyers and receivers have escaped all manner of punishment, which hath greatly encouraged the buying and receiving of such stolen goods; for remedy whereof, be it enacted, that from and after the said 12th day of February 1702, it shall and may be lawful to prosecute and punish every such person and persons buying or receiving any stolen goods, knowing the same to be stolen, as for a misdemeanor, to be punished by fine and imprisonment, although the principal felon be not before convicted of the said felony, which shall exempt the offender from being punished as accessory, if the principal shall be afterwards convicted.

III. And be it enacted, that from and after the said 12th day of February, 1702, all and every person and persons, who shall be produced or appear as a witness or witnesses on the behalf of the prisoner, upon any trial for treason or felony, before he or she be admitted to depose, or give any manner of evidence, shall first take an oath to depose the truth, the whole truth, and nothing but the truth, in such manner as the witnesses

If principal offender be convicted of felony, &c. it shall be lawful to proceed against accessory; who on conviction shall suffer the same punishment, &c.
3 & 4 W. & M. c. 9. §. 4. See A. A. 23 Aug. 1769.

Receivers of stolen goods may be punished, where the principal felon is not convicted.

Witnesses for prisoner on trial for treason or felony, shall depose on oath, in such manner

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as the Queen's witnesses. Penalties if convicted of perjury.

for the Queen are by law obliged to do; and if convicted of any wilful perjury in such evidence, shall suffer all the punishments, penalties, forfeitures, and disabilities, which by any of the laws and statutes of this realm are and may be inflicted upon persons convicted of wilful perjury.

Captain, master &c. wilfully casting away or burning, &c. any ship, shall suffer death.

IV. And for the effectual preventing the wilful casting away, burning, or otherwise destroying, by masters and mariners, of ships under their charge, be it enacted, that if any captain, master, mariner, or other officer belonging to any ship, shall, after the said 12th day of February, 1702, wilfully cast away, burn, or otherwise destroy the ship unto which he belongeth, or procure the same to be done, to the prejudice of the owner or owners thereof, or of any merchant or merchants that shall load goods thereon, he shall suffer death as a felon.

Such offence committed on the high seas may be tried in any shire in England, as by 23 H. 8. c. 15. Person convicted to suffer death without benefit of clergy.

V. And be it enacted, that all and every the said offence and offences committed on the high seas, or where the admiralty hath jurisdiction, shall be inquired, tried, heard, determined and judged, in such shires and places in the realm, as shall be limited by the Queen's commission under the Great Seal of England, in such manner and form, as in and by an Act made in the 28th year of the reign of the late King Henry the 8th, is directed and appointed for the trial of pirates; and that all and every person and persons, who, from and after the said 12th day of February, 1702, shall be convict of any the said offence or offences last mentioned, or shall stand mute, or peremptorily challenge above the number of 20 persons returned to serve of the Jury, shall suffer death without benefit of clergy.

A. D. 1704.
3 & 4 Ann c. 9.

An Act for giving like Remedy upon promissory Notes, as is now used upon Bills of Exchange, and for the better payment of inland Bills of Exchange.

Promissory notes may be assigned or indorsed, and action maintained thereon as on inland bills of exchange. Plaintiff or defendant may recover costs.

WHEREAS, it hath been held, that notes in writing, signed by the party who makes the same, whereby such party promises to pay unto any other person, or his order, any sum of money therein mentioned, are not assignable or indorsible over, within the custom of merchants, to any other person; and that such person to whom the sum of money mentioned in such note is payable, cannot maintain an action, by the custom of merchants, against the person who first made and signed the same; and that any person to whom such note should be assigned, indorsed, or made payable, could not within the said custom of merchants, maintain any action upon such note against the person who first drew and signed the same; therefore, to the intent to encourage trade and commerce, which will be much advanced if such notes shall have the same effect as inland bills of exchange, and shall be negotiated in like manner; be it enacted, that all notes in writing, that after the 1st day of May, in the year of our Lord 1705, shall be made and signed by any person or persons, body politick or corporate, or by the servant or agent of any corporation, banker, goldsmith, merchant, or trader, who is usually intrusted by him, her or them, to sign such promissory notes for him, her, or them, whereby such person or persons, body politick and corporate, his, her, or their servant or agent, as aforesaid, doth or shall promise to pay to any other person or persons, body politick and corporate, his, her, or their order, or unto bearer, any sum of money mentioned in such note, shall be taken and construed to be, by virtue thereof, due and payable to any such person or persons, body politick and corporate, to whom the same is made payable; and also every such note payable to any person or persons, body politick and corporate, his, her, or their order,

shall be assignable or indorsible over, in the same manner as inland bills of exchange are or may be, according to the custom of merchants; and that the person or persons, body politick and corporate, to whom such sum of money is or shall be by such note made payable, shall and may maintain an action for the same, in such manner as he, she, or they might do, upon any inland bill of exchange, made or drawn according to the custom of merchants, against the person or persons, body politick and corporate, who, or whose servant or agent, as aforesaid, signed the same; and that any person or persons, body politick and corporate, to whom such note that is payable to any person or persons, body politick and corporate, his, her, or their order, is indorsed or assigned, or the money therein mentioned ordered to be paid by indorsement thereon, shall and may maintain his, her, or their action for such sum of money, either against the person or persons, body politick and corporate, who, or whose servant or agent, as aforesaid, signed such note, or against any of the persons that indorsed the same, in like manner as in cases of inland bills of exchange: And in every such action the plaintiff or plaintiffs shall recover his, her, or their damages and costs of suit; and if such plaintiff or plaintiffs shall be non-suited, or a verdict be given against him, her, or them, the defendant or defendants shall recover his, her, or their costs against the plaintiff or plaintiffs; and every such plaintiff or plaintiffs, defendant or defendants, respectively recovering, may sue out execution for such damages and costs by *Capias*, *Fieri facias* or *Elegit*.

II. And be it enacted, That all and every such actions shall be commenced, sued and brought within such time as is appointed for commencing or suing actions upon the case, by the statute made in the 21st year of the reign of King James the First, entitled, An Act for Limitation of Actions, and for avoiding of Suits in Law.

How action
shall be
brought.

III. Provided, That no body politick or corporate shall have power, by virtue of this Act, to issue or give out any notes, by themselves or their servants, other than such as they might have issued, if this Act had never been made.

Proviso against
giving out
notes.

IV. And whereas by an Act of Parliament made in the 9th year of the reign of his late Majesty King William the Third, entitled, An Act for the better payment of inland Bills of Exchange, it is, amongst other things, enacted, that from and after presentation and acceptance of the said bill or bills of exchange, (which acceptance shall be by the underwriting the same under the party's hand so accepting) and after the expiration of three days after the said bills shall become due, the party to whom the said bill or bills are made payable, his servant, agent or assigns, may and shall cause the same bill or bills to be protested in manner as in the said Act is enacted: And whereas, by there being no provision made therein for protesting such bill or bills, in case the party, on whom the same are or shall be drawn, refuse to accept the same, by underwriting the same under his hand, all merchants and others do refuse to underwrite such bill or bills, or make any other than a promissory acceptance, by which means the effect and good intent of the said Act in that behalf is wholly evaded, and no bill or bills can be protested before or for want of such acceptance by underwriting the same as aforesaid; for remedy whereof be it enacted, that from and after the first day of May, which shall be in the year of our Lord 1705, in case, upon presenting of any such bill or bills of exchange, the party or parties, on whom the same shall be drawn, shall refuse to accept the same by underwriting the same, as aforesaid, the party to whom

Party refusing
to underwrite
bill of exchange
such bill may
be protested
for non-acceptance.

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the said bill or bills are made payable, his servant, agent, or assigns, may and shall cause the said bill or bills to be protested for non-acceptance, as in case of foreign bills of exchange; any thing in the said Act, or any other law, to the contrary notwithstanding; for which protest there shall be paid 2 shillings, and no more.

No acceptance of inland bills of exchange to be sufficient, unless the same be underwritten, nor drawer thereof liable to costs, &c.

V. Provided always, that from and after the said 1st day of May, no acceptance of any such inland bill of exchange shall be sufficient to charge any person whatsoever, unless the same be underwritten or indorsed in writing thereupon; and if such bill be not accepted by such underwriting, or indorsement in writing, no drawer of any such inland bill shall be liable to pay any costs, damages, or interest thereupon, unless such protest be made for non-acceptance thereof, and within 14 days after such protest, the same be sent, or otherwise notice thereof be given to the party from whom such bill was received, or left in writing at the place of his or her usual abode; and if such bill be accepted, and not paid before the expiration of 3 days after the said bill shall become due and payable, then no drawer of such bill shall be compellable to pay any costs, damages, or interest thereupon, unless a protest be made and sent, or notice thereof be given, in manner and form above-mentioned: Nevertheless, every drawer of such bill shall be liable to make payment of costs, damages, and interest upon such inland bill, if any one protest be made of non-acceptance or non-payment thereof, and notice thereof be sent, given or left, as aforesaid.

No protest necessary for non-payment, unless the bill be drawn for £20 or upwards. By whom protest shall be made.

VI. Provided, that no such protest shall be necessary, either for non-acceptance or non-payment of any inland bill of exchange, unless the value be acknowledged and expressed in such bill to be received, and unless such bill be drawn for the payment of £20 sterling or upwards; and that the protest, hereby required for non-acceptance, shall be made by such persons as are appointed by the said recited Act to protest inland bills of exchange for non-payment thereof.

Acceptance of bill esteemed a full payment of debt.

VII. And be it further enacted, that from and after the said 1st day of May, if any person doth accept any such bill of exchange for and in satisfaction of any former debt, or sum of money formerly due unto him, the same shall be accounted and esteemed a full and complete payment of such debt; if such person, accepting of any such bill for his debt, doth not take his due course to obtain payment thereof, by endeavouring to get the same accepted and paid, and make his protest, as aforesaid, either for non-acceptance, or non-payment thereof.

Proviso.

VIII. Provided, that nothing herein contained shall extend to discharge any remedy, that any person may have against the drawer, acceptor or indorser of such bill.

A. D. 1708.
7 Ann. c. 19.

An Act to enable Infants who are seized or possessed of Estates in Fee, in Trust, or by way of Mortgage, to make conveyances of such Estates.

After 10th May 1709, any person under the age of 21,

WHEREAS, many inconveniences do and may arise by reason that persons under the age of 21 years having estates in lands, tenements, or hereditaments, only in trust for others, or by way of mortgage, cannot (though by the direction of the *Cestuy que trust*, or mortgagor) convey any sure estate in any such lands, tenements, or hereditaments, to any other person or persons; for remedy thereof, be it enacted, that from and after the 10th day of May 1709, it shall and may be lawful to and for any such person or persons, under the age of 21 years, by the direction of the high

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court of Chancery or the court of Exchequer, signified by an order made upon hearing all parties concerned, on the petition of the person or persons for whom such infant or infants shall be seized or possessed in trust, or of the mortgagor or mortgagors, or guardian or guardians of such infant or infants, or person or persons entitled to the monies secured by or upon any lands, tenements, or hereditaments, whereof any infant or infants are or shall be seized or possessed by way of mortgage, or of the person or persons entitled to the redemption thereof, to convey and assure any such lands, tenements, or hereditaments, in such manner as the said court of Chancery or the court of Exchequer shall, by such order so to be obtained, direct, to any other person or persons; and such conveyance or assurance so to be had and made as aforesaid, shall be as good and effectual in law, to all intents and purposes whatsoever, as if the said infants or infant were, at the time of making such conveyance or assurance, of the full age of 21 years; any law, custom, or usage to the contrary in any wise notwithstanding.

being trustee, &c. may by the directions of the courts of Chancery, or Exchequer, convey such lands, &c. and such conveyance shall be good.

II. And be it enacted, that all and every such infant or infants, being only trustee or trustees, mortgagee or mortgagees as aforesaid, shall and may be compelled by such order, so as aforesaid to be obtained, to make such conveyance or conveyances, assurance or assurances as aforesaid, in like manner as trustees or mortgagees of full age are compellable to convey or assign their trust estates, or mortgages.

An infant being trustee, &c. may be compelled to make such conveyance, &c.

An Act for the better security of Rents, and to prevent frauds committed by Tenants.

A. D. 1709.
8 Ann. c. 14.

FOR the more easy and effectual recovery of rents reserved on leases for life or lives, term of years, at will or otherwise; be it enacted, that from and after the 1st day of May, which shall be in the year of our Lord 1710, no goods or chattles whatsoever, lying or being in or upon any messuage, lands or tenements, which are or shall be leased for life or lives, term of years, at will or otherwise, shall be liable to be taken by virtue of any execution on any pretence whatsoever, unless the party at whose suit the said execution is sued out, shall before the removal of such goods from off the said premises, by virtue of such execution or extent, pay to the landlord of the said premises or his bailiff, all such sum or sums of money as are or shall be due for rent for the said premises at the time of the taking such goods or chattles by virtue of such execution; provided the said arrears of rent do not amount to more than 1 year's rent; and in case the said arrears shall exceed 1 year's rent, then the said party, at whose suit such execution is sued out, paying the said landlord or his bailiff, 1 year's rent, may proceed to execute his judgment, as he might have done before the making of this Act; and the sheriff or other officer is hereby impowered and required to levy and pay to the plaintiff as well the money so paid for rent, as the execution money.

After the 1st of May 1710, no goods, &c. shall be taken in execution, &c. unless the party before removal of the goods, &c. pay the landlord the rent due.
52 H. 3. c. 4.
13 Ed. 1. c. 37.
2 W. & M. stat. 1 c. 5.
Provided it amount to no more than 1 year's rent.
The sheriff &c. to levy the rent as well as the execution money.

II. And in case any lessee for life or lives, term of years, at will or otherwise, of any messuages, lands, or tenements, upon the demise whereof any rents are or shall be reserved or made payable, shall, from and after the said 1st day of May, fraudulently or clandestinely convey or carry off or from such demised premises his goods or chattles, with intent to prevent the landlord or lessor from distraining the same for arrears of such rent so reserved as aforesaid, it shall and may be lawful to and for such lessor or landlord, or any person or persons by him for that purpose

If any lessee, &c. shall fraudulently carry off goods, &c.

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the lessor, &c. may within five days after seize such goods, &c. and sell the same as if they had been distrained.

Proviso, such lessor, &c. shall not seize any goods, &c. which shall be bona fide sold before.

Debt may be brought against tenant for life for rent.

Distresses liable to such sales, and to be distributed, as by the Act 2 W. & M. c. 1. c. 5.

Rent in arrear upon a lease for life, &c. expired, may be distrained for after the determination of the lease.

Distress to be within six months after the end of the lessor, and during the landlord's title and tenant's possession.

This Act shall not hinder the Queen, &c. to levy, &c. any debts, fines, &c. due to the Crown.

lawfully impowered, within the space of 5 days next ensuing such conveying away or carrying off such goods or chattles as aforesaid, to take and seize such goods and chattles wherever the same shall be found, as a distress for the said arrears of such rent; and the same to sell or otherwise dispose of, in such manner as if the said goods and chattles had actually been distrained by such lessor or landlord, in and upon such demised premises for such arrears of rent; any law, custom, or usage to the contrary in any wise notwithstanding.

III. Provided, That nothing in this Act contained shall extend, or be construed to extend, to empower such lessor or landlord to take or seize any goods or chattles as a distress for arrears of rent, which shall be sold *bona fide*, and for a valuable consideration, before such seizure made; any thing herein contained to the contrary notwithstanding.

IV. And whereas no action of debt lies against a tenant for life or lives, for any arrears of rent, during the continuance of such estate for life or lives; be it enacted, That from and after the said 1st day of May, it shall and may be lawful for any person or persons, having any rent in arrear or due upon any lease or demise for life or lives, to bring an action or actions of debt for such arrears of rent, in the same manner as they might have done, in case such rent were due and reserved upon a lease for years.

V. And it is hereby enacted, That all distresses hereby impowered to be made as aforesaid, shall be liable to such sales, and in such manner, and the monies arising by such sales to be distributed in like manner, as by an Act made in the 2d year of the reign of their late majesties, King William and Queen Mary, intituled an Act for enabling the Sale of Goods distrained for Rent, in case the rent be not paid in reasonable time, is in that behalf directed and appointed.

VI. And whereas tenants *pur auter vie* and lessees for years or at will, frequently hold over the tenements to them demised, after the determination of such leases: And whereas after the determination of such, or any other leases, no distress can by law be made for any arrears of rent that grew due on such respective leases before the determination thereof; It is hereby enacted, that from and after the said 1st day of May 1710, it shall and may be lawful for any person or persons, having any rent in arrear or due upon any lease for life or lives, or for years, or at will, ended or determined, to distrain for such arrears, after the determination of the said respective leases, in the same manner as they might have done, if such lease or leases had not been ended or determined.

VII. Provided, that such distress be made within the space of 6 calendar months after the determination of such lease, and during the continuance of such landlord's title or interest, and during the possession of the tenant from whom such arrears became due.

VIII. Provided, that nothing in this Act contained shall extend, or be construed to extend, to let, hinder or prejudice her majesty, her heirs or successors, in the levying, recovering or seizing any debts, fines, penalties or forfeitures, that are or shall be due, payable or answerable to her majesty, her heirs or successors; but that it shall and may be lawful for her majesty, her heirs and successors, to levy, recover, and seize such debts, fines, penalties and forfeitures, in the same manner as if this Act had never been made; any thing in this Act contained to the contrary thereof in any wise notwithstanding.

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APPENDIX TO THE ENGLISH STATUTES MADE OF FORCE.

The following British Statutes have not been expressly adopted by the Act of December 12, 1712, but they are now added to the "*English Statutes made of force*," with the reasons for their insertion, at the head of each Act.

The following Act of 33 Edward 1, A. D. 1305, "As to Challenges of Jurors," is inserted under the authority of the State vs. Barrontine, 2 Nott and McCord's Reports, p. 552.

An Ordinance for Inquests, made 18 Septembris, Anno 33 Edw. 1, Stat. 4, Anno Dom. 1305.

He that challengeth a Jury or Juror for the King, shall shew his Cause.

OF inquests to be taken before any of the Justices; and wherein our Lord the King is party, howsoever it be, it is agreed and ordained by the King and all his Councill, That from henceforth, notwithstanding it be alledged by them that sue for the King, that the jurors of those inquests, or some of them, be not indifferent for the King, yet such inquests shall not remain untaken for such cause, but if they that sue for the King will challenge any of those jurors, they shall assign of their challenge, a cause certain, and the truth of the same challenge shall be enquired of according to the custom of the court; and let it be proceeded to the taking of the same inquisitions, as it shall be found, if the challenges be true or not, after the discretion of the justices.

Rast. 115.
Fitz. Chall. 17,
63, 65, 107.
Bro. Chall. 21,
154.

(Inserted on the authority of the second section of A. A. 1712.)

In what place Bastardy pleaded against him that is born out of the Realm shall be tried.

A. D. 1350.
25 Ed. 3. st. 2.

OUR Lord the King, at his Parliament holden at Westminster, at the *Utas* of the Purification of our Lady, the year of his reign of England the 26th, and of France the 12th, considering the great mischiefs and damages which have happened to the people of his realm of England, as well because that the statutes ordained before this time have not been holden and kept as they ought to be, as because of the mortal pestilence that late reigned, and willing to provide for the quietness and common profit of his said people convenient remedy; therefore, by the assent of the prelates, earls, barons, and other great men, and all the commons of his said realm summoned to the parliament, hath ordained and established the things underwritten, *videlicet*, Because that some people be in doubt, if the children born in the parts beyond the sea, out of the ligeance of England, should be able to demand any inheritance within the same ligeance, or not, whereof a petition was put in the parliament late holden at Westminster,

Vide ante.
20 H. 3. c. 9.
2 Fausat's laws,
74. 1 Tread.
Const. rep. 459.
1 Nott & McCord, 294.
As to alien succession.
21 J. 1. c. 27.

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the seventeenth year of the reign of our Lord the King that now is, and was not at the same time wholly assented; our Lord the King, willing that all doubts and ambiguities should be put away, and the law in this case declared and put in a certainty, hath charged the said prelates, earls, barons, and other wise men of his council, assembled in this parliament, to deliberate upon this point; all which of one assent have said, that all children inheritors, which from henceforth shall be born without the ligeance of the King, whose fathers and mothers at the time of their birth be and shall be at the faith and ligeance of the King of England, shall have and enjoy the same benefits and advantages, to have and bear the inheritance within the same ligeance, as the other inheritors aforesaid in time to come; so always, that the mothers of such children do pass the sea by the licence and wills of their husbands.

(Inserted on the authority of section 3 of Act of Dec. 12, 1712.)

A. D. 1354.
28 Ed. 3. c. 3.*No Person shall be condemned without his answer.*

ITEM, That no man of what estate or condition, that he be, shall be put out of land or tenement, nor taken nor imprisoned, nor disinherited, nor put to death, without being brought in answer by due process of the law.

3 Bulstr. 47. 9 H.
3, stat. 1. c. 29.
5 Ed. 3. c. 9.

(Inserted on the authority of section 4 of Act of Dec. 12, 1712.)

A. D. 1393.
17 R. 2. c. 6.*Upon an untrue Suggestion in the Chancery, Damages may be awarded.*

ITEM, Forasmuch as people be compelled to come before the King's Council, or in the Chancery, by writs grounded upon untrue suggestions; That the Chancellor for the time being, presently after that such suggestions be duly found and proved untrue, shall have power to ordain and award damages according to his discretion, to him which is so troubled unduly as afore is said.

By 15 H. 6. c. 3
4 Inst. 82.

(The following Act is inserted as the original Habeas Corpus Act, and on the authority of section 3 of the Act of Dec. 12, 1712.)

A. D. 1414
2 H. 5. st. 1. c. 2.*A Corpus cum Causa, or Certiorari, to remove him who is in Execution at another Man's Suit.*

ITEM, Forasmuch as many men have been condemned in the courts of our Lord the King, and in the courts of his progenitors, as well within the city of London, as in other cities and boroughs within the realm of England, and by the virtue of such condemnations have been committed to the prison of our Lord the King, there to remain until they have made agreement to the plaintiffs to whom they were condemned; after by their suggestion made in the chancery of our Lord the King, they have had divers writs called *Certiorari* and *Corpus cum Causa*, out of the chancery of our said Lord the King, directed to the sheriff, or keepers of the prisons where such persons condemned be holden, to have their bodies, with the cause of imprisonment of the condemned aforesaid, in the chancery, at the days contained in the said writs; after which writs, together with the body, and the cause of the condemnation, returned in the chancery aforesaid, the said persons so condemned have been delivered in

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the chancery aforesaid by bail or by mainprise, or enlarged without bail or mainprise, against the assent and will of the said plaintiffs, and without any agreement made to the said plaintiffs of the sums in the which they be condemned, against the law of the land; and so remain the said plaintiffs without remedy, in hinderance of the state such plaintiffs, and in defeating of the judgments given in the courts aforesaid: The King, willing herein to provide remedy, by the advice and assent aforesaid, and at the request of the foresaid commons, hath ordained and established, That if any such writ of *Certiorari*, or *Corpus cum Causa*, be granted, or shall be granted at any time hereafter, and upon the said writ if it be returned, that the prisoner which is so holden in prison is condemned by judgment given against him, that presently he shall be remanded, where he shall remain continually in prison according to the law and custom of the land, without being let to go by bail or by mainprise against the will of the said plaintiffs, until agreement be made to them of the sums so adjudged.

4 H. 6. s. 8.
20 H. 6. s. 3.
38 H. 6. s. 12.
2 Ed. 4. s. 8.
24 Ed. 3. s. 27.
Fitz. N. B. 242.

(Inserted as confirmatory of the common law relating to Pledges of Prosecution.)

None shall sue a Subpœna until he find Surety to satisfy the Defendant his Damages, if he do not verify his Bill.

A. D. 1436.
15 H. 6. c. 4.

ITEM, For that divers persons have before this time been greatly vexed and grieved by writs of subpœna, purchased for matters determinable by the common law of this land, to the great damage of such persons so vexed, in subversion and impediment of the common law aforesaid; our Lord the King doth command, That the statutes thereof made shall be duly observed according to the form and effect of the same, and that no writ of subpœna be granted from henceforth until surety be found to satisfy the party so grieved and vexed, for his damages and expences, if so be that the matter cannot be made good, which is contained in the bill.

This chapter is not upon the Roll.

17 R. 2. c. 6.
Br. Const. 24.

(Inserted on the authority of section 2, of the Act of Dec. 12, 1712.)

* *The Bill concerning the Explanation of Wills.*

A. D. 1542-3.
34 & 35 H. 8. c. 5.

III. Whereas, it is contained in the † same former statute, within divers articles and branches of the same, that all and singular person and persons having any manors, lands, tenements or hereditaments of the estate of inheritance, should have full and free liberty, power and authority, to give, will, dispose or assign, as well by his last will and testament in writing, or otherwise by any act or acts lawfully executed in his life, his manors, lands, tenements or hereditaments, or any of them, in such manner and form as in the same former Act more at large it doth appear. Which words of estate of inheritance, by the authority of this present parliament, is and shall be declared, expounded, taken and judged of estate in fee-simple only.

† 32 H. 8. c. 1.
This statute is not of force with us.

The words Estate of Inheritance how to be understood.

XIV. † And it is further enacted, That wills or testaments made of any manors, lands, tenements or other hereditaments, by any woman covert, || *or person within the age of twenty-one years*, idiot, or by any person *de non sane* memory, shall not be taken to be good or effectual in the law.

Persons incapacitated to devise their lands.
6 Co 23.
Dyer 354.
Hob. 225.

* The construction of the words contained in the third section, having been received and adopted in our jurisprudence, it is inserted here to shew that it derives its authority from the Legislature.

|| 1 McCord 225, 477.

† This clause is introduced into the A. A. of April 9, 1734, wherein although words are introduced of much more extensive import than these above, they have omitted the words in italics here: But the whole clause is declaratory of the common law, which is made of force here by the fifth section of A. A. Dec. 12, 1712.

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(The following section of an Act of 17 Charles 2, ch. 7, A. D. 1665, entitled "An Act for a more speedy and effectual proceeding upon Distresses and Avowries for Rents," is inserted on the authority of Solomon vs. Hervey et. al. 1 Nott and McCord's Reports, 82.)

Preamble.

Plaintiff in
replevin being
nonsuited be-
fore issue join-
ed, how defen-
dant may avow.

Plaintiff non-
suit after avow-
ry made, &c.

II. Forasmuch as the ordinary remedy for arrearages of rents, is by distress upon the lands chargeable therewith; and yet nevertheless, by reason of the intricate and dilatory proceedings upon replevins, that remedy is become ineffectual: For remedy thereof, it is enacted by the King's most excellent majesty, with the advice and consent of the lords spiritual and temporal, and commons in this present parliament assembled, and by the authority of the same, That whensoever any plaintiff in replevin shall be nonsuit before issue joined, in any suit of replevin by plaint or writ lawfully returned, removed or depending in any of the King's courts at Westminster, that the defendant making a suggestion in nature of an avowry or cognizance of such rent, to ascertain the court of the cause of distress, the court upon his prayer shall award a writ to the sheriff of the county where the distress was taken, to inquire by the oaths of twelve good and lawful men of his bailiwick, touching the sum in arrears at the time of such distress taken, and the value of the goods or cattle distrained, and thereupon notice of fifteen days shall be given to the plaintiff or his attorney in court, of the sitting of such inquiry; and thereupon the sheriff shall inquire of the truth of the matters contained in such writ, by the oaths of twelve good and lawful men of his county: And upon the return of such inquisition, the defendant shall have judgement to recover against the plaintiff the arrearages of such rent, in case the goods or cattle distrained shall amount unto that value; and in case they shall not amount up to that value, then so much as the value of the said goods and cattle so distrained shall amount unto, together with his full costs of suit; and shall have execution thereupon by *feri facias*, or *elegit*, or otherwise, as the law shall require. And in case such plaintiff shall be nonsuit after such cognizance or avowry made, and issue joined, or if the verdict shall be given against such plaintiff, then the jurors that are impannelled or returned to enquire of such issue, shall at the prayer of the defendant inquire concerning the sum of the arrears, and the value of the goods or cattle distrained; And thereupon the avowant or he that makes cognizance, shall have judgement for such arrearages, or so much thereof, as the goods or cattle distrained amount unto, together with his full costs, and shall have execution for the same, by *feri facias* or *elegit*, or otherwise, as the law shall require.

(The following sections of 4 & 5 W. & M. ch. 24, 1692, are adopted by Judges Grimke and Brevard. They are explanatory of the statutes relating to Executors, and relating to Benefit of Clergy.)

An Act for Reviving, Continuing and Explaining several Laws therein mentioned, which are expired and near expiring.

30 Car. 2. st. 1.
c. 7. about re-
covery against
Executors de
son tort, contin-
ued by 1 Jac. 2.
c. 17. §14. here-
by made per-
petual.

XII. And be it further enacted by the authority aforesaid, That an Act made in the thirtieth year of the reign of King Charles the Second, entitled, An Act to enable Creditors to recover their Debts of the Executors and Administrators of Executors in their own Wrong: which said Act, in the first year of the reign of the late King James the Second, was enacted to be in force from the first day of the then

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present session of parliament, and to continue for seven years, and from thence to the end of the first session of the then next parliament, shall be and is hereby continued and made perpetual. And forasmuch as it hath been a doubt whether the said Act did extend to any executor or executors, administrator or administrators, of any executor or administrator of right, who for want of privity in law were not before answerable, nor could be sued for the debts due from or by the first testator or intestate, notwithstanding that such executors or administrators had wasted the goods and estate of the first testator or intestate, or converted the same to his or their own use: For remedy whereof be it enacted, That all and every the executor and executors, administrator or administrators, of such executor or administrator of right, who shall waste or convert to his own use, goods, chattles, or estate of his testator or intestate, shall from henceforth be liable and chargeable in the same manner as his or their testator or intestate should or might have been; any law or usage to the contrary notwithstanding.

Devastavit
against Executors
by right.

XIII. And whereas, by an Act made at the last session of this present Parliament, intituled, An Act to take away clergy from such offenders, and to bring others to punishment, it was enacted, in cases where a man being convicted of felony might demand the benefit of his clergy, a woman convicted for such like offence and praying the benefit of that statute, should not have judgment of death given against her upon such conviction, or execution awarded upon any outlawry for such offence, but should suffer the same punishment as a man who hath the benefit of his clergy in the like case should suffer: And whereas some doubt hath arisen upon the said statute, whether a woman should have the benefit thereof more than once; Be it therefore declared and enacted by the authority aforesaid, That if any woman hath been, or at any time hereafter shall be, convicted of any felony, for which a man might have the benefit of clergy, and upon her prayer hath once had or hereafter shall once have, the benefit of the said statute, and shall be again convicted of any other felony, for which a man might have the benefit of his clergy, such woman shall be, and is hereby totally excluded from having any benefit or advantage of the said statute, but shall suffer pains of death in such and the same manner as if the said statute had not been made. And be it further enacted, That the said last mentioned Act shall continue and be in force for the space of three years, from the thirteenth day of February, one thousand six hundred ninety-two, and from thence to the end of the next session of Parliament, and no longer.

4 & 5 W. & M.
c. 24.
Women only to
have benefit of
clergy once.
Made perpetual
by 6 & 7 W. 3.
c. 14. § 1.

(The following Act is inserted under the authority of the 39th section of the Jurymen-Act, August 20, 1731.)

* *An Act for the more effectual Relief of Creditors in cases of Escapes, and for preventing Abuses in Prisons and pretended privileged Places.* A. D. 1697.
8 & 9 W. 3.
c. 27.

WHEREAS, by reason of the many grievous extortions and ill practices of such persons who have for several years past respectively executed the offices of Marshal of the King's Bench, Warden of the Fleet, and Keeper of the Marshalsea, Newgate, and other prisons, and by several pretended privileged places within this realm, both creditors and debtors

Prisoners in the
King's Bench or
Fleet, to be de-
tained there or
in the Rules.

* See Section 39 of the Jurymen-Act, of August 20, 1731. Also the Act relating to Prison bounds, Feb. 29, 1788.

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Keeper suffering prisoners to go at large without Habeas Corpus, deemed an Escape.

have been most notoriously abused, and the good intents of the law wholly eluded: For reformation thereof, be it enacted, That from and after the first day of May, one thousand six hundred ninety-seven, all prisoners, either upon contempt or mesne process, or in execution, who are or shall be committed to the custody of the Marshal of the King's Bench Prison, or Warden of the Fleet, shall be actually detained within the said prisons of the King's Bench and Fleet, or the respective rules of the same, until they shall be from thence discharged by due course of law; and if at any time from and after the said first day of May, the said Marshal or Warden, or any other keeper or keepers of any prison, shall permit and suffer any prisoner committed to their custody, either on mesne process or in execution, to go or be at large out of the rules of their respective prisons (except by virtue of some writ of *habeas corpus* or rule of court, which rule of court shall not be granted but by motion made or petition read in open court,) every such going or being out of the said rules, shall be adjudged and deemed, and is hereby declared to be an escape.

Upon judgment in action of escape, marshal or wardens fees to be sequestered for satisfaction. Mod. Cases in Law, 350.

II. And from and after the said first day of May, every person or persons obtaining judgment in any action of escape against the said Marshal or Warden, or their respective lawful deputy or deputies, shall and may have not only the several remedies already by law allowed for obtaining satisfaction thereon, but the judges of the respective courts where such judgment shall be obtained (upon oath before them made by the person or persons obtaining such judgment, that the same was obtained without fraud or covin, and that the debt of the prisoner making such escape was a true and real debt and unsatisfied) shall upon motion made to them in open court for that purpose, sequester the fees and profits of the office of Marshal or Warden, or so much, or such part or proportion thereof, as the said court wherein such motion shall be made shall think fit and reasonable, with respect to the debt or debts due from such prisoner or prisoners so escaping, and in the first place apply the same towards satisfaction of the debt or debts due from the prisoner or prisoners who escaped, together with all costs and damages recovered in such action of escape.

Marshal, &c. suing writ of error to reverse judgment, to put in special bail.

III. And to the end that such satisfaction may not be deferred by any writ of error brought for delay only, be it enacted, That if the said Marshal or Warden, or their respective deputy or deputies, shall at any time after the said first day of May sue forth any writ or writs of error to reverse any judgment given in any action of escape, such Marshal or Warden, or their respective deputy or deputies, shall be obliged to put in special bail, or in default thereof no execution shall be stayed, nor any sequestration of the profits delayed.

Penalty on the Marshal, &c. taking any reward to connive at prisoner's escape.

IV. And whereas it is notorious that divers great sums of money and other rewards have been given to and actually received by the several persons executing the respective offices of Marshal and Warden, and other keepers of the several prisons within this kingdom, to assist or permit prisoners in their custody to escape, in open defiance and contempt of the laws of this realm; For preventing the like evil practice for the time to come, be it further enacted, That if any Marshal or Warden, or their respective deputy or deputies, or any keeper of any other prison within this kingdom, shall take any sum of money, reward, or gratuity whatsoever, or security for the same, to procure, assist, connive at, or permit any such escape, and shall be thereof lawfully convicted, the said Marshal or Warden, or their respective deputy or deputies, or such other keeper of any prisons as aforesaid, shall for every such offence forfeit the sum of five

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hundred pounds, and his said office, and be for ever after incapable of executing any such office.

V. Provided always, That this Act, nor any thing therein contained, shall extend, or be construed to extend, to make void such securities, or any of them, as shall at any time or times hereafter be given by any prisoner or prisoners for his or their lodging or lodgings without the aforesaid prisons, or either of them, within the rules of the said prisons of King's Bench and Fleet, or either of them, so as such security or securities be not taken for the enlargement of any prisoner or prisoners out of or beyond the rules of the said prisons, King's Bench and Fleet, or either of them respectively.

This Act not to void securities given for lodging within the Rules of the said prisons

VI. And from and after the first day of May, no retaking on fresh pursuit shall be given in evidence on the trial of any issue in any action of escape against the said Marshal or Warden, or their respective deputy or deputies, or against any other keeper or keepers of any other prison or prisons as aforesaid, unless the same be specially pleaded, nor shall any special plea be taken, received, or allowed, unless oath be first made in writing by the Marshal or Warden, or their respective deputy or deputies, or by such other keeper or keepers of any other prison or prisons as aforesaid, against whom such action shall be brought, and filed in the proper office of the respective courts, that the prisoner for whose escape such action is brought did without his consent, privity, or knowledge, make such escape; and if such affidavit shall at any time afterwards appear to be false, and the Marshal or Warden, or other keeper or keepers of any other prison or prisons, shall be convicted thereof by due course of law, such Marshal or Warden, or other keeper or keepers of any other prison or prisons, shall forfeit the sum of five hundred pounds.

No retaking on fresh pursuit to be given in evidence on action of escape, unless specially pleaded, nor any special plea unless on oath that the escape was without consent of the Marshal, &c.

VII. If at any time after the said first day of May, any prisoner who is or shall be committed in execution to either or any of the said respective prisons, shall escape from thence by any ways or means howsoever, the creditor or creditors, at whose suit such prisoner was charged in execution at the time of his escape, shall or may retake such prisoner by any new *Capias* or *Capias ad satisfaciendum*, or sue forth any other kind of execution on the judgment, as if the body of such prisoner had never been taken in execution.

Prisoner in Execution escaping, may be re-taken by any new Capias.

VIII. And if the said Marshal or Warden for the time being, or their respective deputy or deputies, or other keeper or keepers of any other prison or prisons, shall, after one day's notice in writing given for that purpose, refuse to shew any prisoner committed in execution, to the creditor at whose suit such prisoner was committed or charged, or to his attorney, every such refusal shall be adjudged to be an escape in law.

Keeper refusing to shew prisoner, it shall be an Escape.

IX. And if any person or persons whatsoever, desiring to charge any person with any action or execution, shall desire to be informed by the said Marshal or Warden, or their respective deputy or deputies, or by any other keeper or keepers of any other prison or prisons, whether such person be a prisoner in his custody, or not, the said Marshal or Warden, or such other keeper or keepers of any other prison or prisons, shall give a true note in writing thereof to the person so requesting the same, or to his lawful attorney, upon demand at his office for that purpose, or in default thereof shall forfeit the sum of fifty pounds; and if such Marshal or Warden, or the respective deputy or deputies exercising the said office, or other keeper or keepers of any other prison or prisons, shall give a note in writing that such per-

Penalty on Marshal, &c. refusing to give a note whether a person be a prisoner or not.

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Such Note to be sufficient evidence.

On bill filed against the Warden and a rule given out, judgment to be signed, unless pleaded to.

Copy of declaration delivered to prisoner, &c. and affidavit made thereof, Plaintiff to sign judgment.

No prisoner to pay chamber rent longer than while in actual possession, nor pay above 2s. 6d. per week.

son is an actual prisoner in his or their custody, every such note shall be accepted and taken as a sufficient evidence that such person was at that time a prisoner in actual custody.

* XII. And whereas the way of proceeding against the Warden of the Fleet Prison by bill in the Courts of Common Pleas and Exchequer at Westminster, is found to be very dilatory; Be it further enacted, That from and after the said first day of May, it shall and may be lawful to and for any person or persons, having cause of action against the Warden of the Fleet Prison, upon bill filed in the said Courts of Common Pleas or Exchequer against the said Warden, and a rule being given to plead thereto, to be out eight days at most after filing such bill, to sign judgment against the said Warden of the Fleet, unless he plead to the said bill within three days after such rule is out.

XIII. And for the more easy and quick obtaining of judgment against any person or persons who now is or hereafter shall be a prisoner or prisoners in the aforesaid prison of the Fleet; Be it further enacted, That from and after the said first day of May, it shall and may be lawful to and for any person or persons, who hath or shall have any cause of action against any prisoner or prisoners, who now is, or are, or hereafter shall be committed to the said prison of the Fleet, after filing or entering of a declaration in such action with the proper officer, to deliver a copy of such declaration or declarations to any such defendant or defendants in any personal action or actions, or to the turnkey or porter, of the said Fleet prison, and, after rule given thereupon to plead, to be out at eight days at most after delivery of such copy of declaration or declarations, and affidavit made of such delivery before the Lord Chief Justice, or one other of the Justices of the common pleas, or before the Lord Chief Baron, or some other of the barons of the coif of the Exchequer at Westminster, of the delivery of such declaration or declarations to the defendant or defendants in such action or actions, or to the turnkey or porter of the Fleet prison, as aforesaid, to sign judgment in such action or actions against such defendant or defendants, as if such defendant or defendants had been actually charged at the bar of the Common Pleas or Exchequer with such action or actions; any law, statute, usage or custom to the contrary notwithstanding.

XIV. And whereas great sums of money have been and are still taken of the prisoners of the aforesaid prisons of King's Bench and Fleet, and other prisons, under pretence of chamber rent, although the said prisoners have not had the actual possession of any chamber within the said prisons, or any of them: For the avoiding of that inconvenience for the future, be it enacted, That from and after the said first day of May, no prisoner or prisoners shall pay, or be compellable to pay any chamber rent for any chamber within either or any of the said prisons, for any longer time than he or they is or are actually in possession of the said chamber or chambers; and that during such time as he or they is or are actually in possession of any such chamber or chambers within either or any of the said prisons as aforesaid, such prisoner or prisoners shall not pay above the sum of two shillings and sixpence per week for any such chamber; and if the Marshal of the King's Bench prison, Warden of the Fleet, or keeper or keepers of any other prison

* The sections left out in this Act, are entirely of a private and local nature, concerning English persons and places, and therefore useless to us.

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or prisons, as aforesaid, shall take or demand any greater sum or sums of money for the use of such chamber, than the sum of two shillings and six pence per week, he or they so taking or demanding, shall in such case, for every such offence, forfeit the sum of twenty pounds. Penalty on demanding more.

XVI. And be it further enacted, that the several penalties before in and by this Act inflicted, and not particularly disposed of, shall go one half to his Majesty, his heirs and successors, and the other half to him or them that will sue for the same, to be recovered as aforesaid. Penalties how to be disposed of.

XVII. And for the prevention of disputes touching this Act, be it enacted by the authority aforesaid, that the same, and every clause and thing therein contained, shall be deemed, adjudged, and taken to be a general law, and that it shall not be needful to shew or set forth the same or any clause thereof in pleading, and that the same, and all clauses therein, shall be construed most largely and beneficially for the preventing of all the mischiefs, abuses, escapes, and other inconveniences herein provided against; and further, that if any person or persons shall at any time be sued for putting in execution any power or authority given by this Act, such person and persons shall and may plead the general issue, and give in evidence this Act, and the special matter; and if the plaintiff or plaintiffs in such action shall be non-suit, or a verdict given for the defendant or defendants, or if the plaintiff or plaintiffs discontinue their action, or if upon demurrer judgment shall be given for the defendant or defendants, every such defendant or defendants shall have his or their double costs. This Act to be a general law; and persons sued for executing the same may plead the general issue, &c. Defendant to have double costs.

(The two following Acts are inserted as supplementary to the last mentioned Act, "for the more effectual relief of creditors, &c." and upon the authority of Grimke and Brevard; and because they are generally considered as adopted in practice in this State; but there is no direct legislative authority for their insertion.)

An act for the better preventing Escapes out of the Queen's Bench and Fleet Prisons.

A. D. 1701.
1 Ann. Stat. 1
c. 6.

WHEREAS, divers persons heretofore legally committed by her majesty's several courts of record at Westminster, to the custody of the Marshal of the Queen's Bench, and to the prison of the Fleet, upon actions for the recovery of debt, or damages, or for contempts in not performing orders or decrees made in courts of equity, and in execution, have by bribes and illegal practices, to and with such Marshal of the Queen's Bench, or to and with the Warden of the said prison of the Fleet, or some of their officers, or servants, or other persons in trust for them, and for their respective uses and benefit, frequently procured from such Marshal or Warden liberty to escape, and go at large, without satisfaction made to the respective plaintiffs or creditors, and without discharging such debts, or satisfying such damages, or performing such orders or decrees, as well to the great damage of honest creditors, the decrease of personal credit, and discouragement of trade, as in open defiance to all good and wholesome laws heretofore made to restrain such abuses; for remedy whereof, and for preventing the like evil practices for the future, Be it enacted by the Queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, That if any person or persons already committed, rendered, or charged, or who shall hereafter be committed, or rendered to, or charged in the custody of the Marshal of the Queen's

Prisoners in Queen's Bench or Fleet prison.

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Bench for the time being, or to or in the prison of the Fleet, either in execution, or upon Mesne Process, or upon any contempt in not performing such order or decree by any of her Majesty's courts at Westminster, and such person or persons shall, at any time after such commitment, render, charge, or being in execution, and before he, she or they shall have made payment or satisfaction to the respective plaintiff of plaintiffs, creditor or creditors, or shall have cleared him, her, or themselves of such contempts, as he, she, or they were, or shall be charged with at the time of such their commitment, render, charge, or being in execution as aforesaid, make any escape from the custody of the Marshal of the Queen's Bench for the time being, or from the prison of the said Queen's Bench, or from the prison of the Fleet, or either of them, or shall go at large, at any time after the three and twentieth day of January, which shall be in the year of our Lord one thousand seven hundred and two, it shall and may be lawful, upon oath thereof in writing, to be made by one or more creditable person or persons, before any one of the Judges of that court, where such action was entered, or judgment and execution were obtained, or where the party was so committed or charged as aforesaid, to and for such Judge, before whom such oath shall be made as abovesaid, and such Judge is hereby authorized and required, from time to time, to grant unto any person whatsoever, who shall demand the same, one or more warrant or warrants under his hand and seal, therein reciting the action or actions, execution or executions, contempt or contempts, with which such person or persons so escaping, or going at large, stood charged, or were committed at the suit of any person or persons, on whose behalf such warrant or warrants shall be demanded at the time of such escape, or going at large, (which said warrant or warrants shall be in force in all places whatsoever, within the Kingdom of England, Dominion of Wales, and Town of Berwick upon Tweed,) directed to all sheriffs, Mayors, Bailiffs, Constables, Headboroughs, and Tythingmen, therein and thereby commanding them, and every of them, in their respective counties, cities, towns, and precincts, to seize and re-take such person or persons so escaped, or going at large; and such person or persons so re-taken upon such warrant, forthwith to convey and commit to the common gaol of such county where such person or persons so escaped, or going at large, shall be re-taken, there to remain without bail or mainprize, or being thence upon any account whatsoever delivered or removed, until he, she, or they shall have made full payment or satisfaction to the respective plaintiff or plaintiffs, creditor or creditors, in such action or actions, execution or executions named, or until the judgment or judgments, on which such execution or executions was or were sued out against such person or persons, shall be reversed or discharged by due course of law, or until judgment in such action or actions be given for such person or persons so committed as aforesaid, or until the said contempt or contempts, for which such person or persons were or shall be committed, be cleared, and discharged; except such person or persons be charged with treason or felony, or any other crime, matter, or cause, for and on behalf of the Queen's majesty, her heirs and successors; and if he or she, for any such cause, on the behalf of the Queen, her heirs and successors, be removed to any other gaol or prison, he or she shall be, in the custody of such gaol, charged with all the causes with which he or she is or shall be charged in the gaol from whence he or she shall be removed; And every Mayor, and other officer as aforesaid, after delivery of such prisoner so re-taken, together with such warrant to the Sheriff, shall take a note

making escape
&c.

on oath thereof.

Judge may
grant warrant
forre-taking such
prisoner,who shall be
committed to
the county gaol
where taken,
there to remain
&c.By 5 Anne,
c. 9. §. 1. such
persons shall be
committed to
the prison,
which the sher-
iff useth for
debtors.
Exception.Mayor, &c.
after delivery of

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in writing from such sheriff, testifying the receipt of such prisoner, which said sheriff is hereby required to receive such prisoner, and give such note; And every such sheriff as aforesaid, after the execution of such warrant, shall forthwith make a return thereof to the court where the action shall be depending, or judgment, order, or decree had or obtained; which shall be entered and filed upon record.

prisoner, shall take a receipt from sheriff. Sheriff to make return of warrant. &c.

II. And be it further enacted, That if any such person or persons so re-taken by warrant as aforesaid, shall at any time make any escape out of the gaol to which he, she, or they shall be so conveyed and committed as aforesaid, the sheriff, in whose custody he, she, or they was or were, shall be liable to answer for such escape, as in the case of any other escape; any law, usage, or custom, to the contrary in any wise notwithstanding.

And answer for prisoner escaping, after re-taken.

III. Provided always, and be it further enacted by the authority aforesaid, That it shall and may be lawful to and for any person or persons, that are or shall be bail in any suit or action in any of her majesty's courts of record at Westminster, for any such person or persons that shall be re-taken and conveyed to such gaol as aforesaid, by virtue of such warrant as aforesaid, to have and procure, out of such of her majesty's courts, where he or they are or shall be bail, a writ directed to the sheriff of the county, to the gaol whereof such prisoner so re-taken shall be committed and detained, commanding such sheriff to detain and keep such prisoner in custody in discharge of his bail; which writ, with an account whether he hath the said prisoner in his custody, shall be returned by the said sheriff into court at a day therein to be mentioned, and the delivery of every such writ to the sheriff, or his deputy, shall be deemed and taken to be an effectual render of such prisoner, to all intents and purposes whatsoever, in discharge of the said bail; and that in case such sheriff, his deputy or other his inferior officer, shall therefore suffer the person or persons so rendered, in discharge of his, her, or their bail, to escape, they and every of them so offending shall be liable to such action and actions, as the marshall of the Queen's bench, or warden of the Fleet prison, is or are liable to, for permitting any person to escape out of his or their custody or prison, who was committed to such custody or prison upon render, in discharge of his, her, or their bail.

Prisoners bail may have a writ to sheriff to detain prisoners, &c. Writ to be returned into court, &c. Sheriff, &c. afterwards suffering prisoner to escape, liable to such action, &c. as marshall or warden, &c.

IV. And be it further enacted, that all and every such sheriffs, upon request of such person or persons, being bail as aforesaid, who shall deliver such writ for keeping and detaining such prisoner as aforesaid, and for the usual fees of returns of actions, shall make, return and certify, under his hand, the receipt of such writ, and the time thereof, and whether the said person so re-taken was then in his custody, and in the default thereof, shall for every such default, neglect, or refusal, forfeit the sum of fifty pounds, to be recovered in any of her Majesty's courts of record at Westminster, by action of debt, bill, plaint, or information, wherein no essoin, protection, wager of law, or any more than one imparlance, shall be allowed; and that upon producing such return or certificate to the court where such bail shall be taken, such court shall direct and cause a *Reddedit se* to be entered upon the bail-piece, which shall be as effectual to all intents and purposes, as if the said bail had then actually rendered the person of the said defendant to such court, or before any judge or judges of the same.

Penalty on sheriff, &c. neglecting to make return of writ.

Reddedit se.

V. And for the prevention of disputes touching this Act, be it enacted by the authority aforesaid, that the same, and every clause and thing therein contained, shall be adjudged and taken to be a general law, and that it shall not be needful to set forth the same in pleading, or any

This Act to be a general law.

A. D. 1712.

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part thereof; and that the same, and every clause therein, shall be construed most beneficially for the preventing of all the mischiefs, abuses, escapes, and other inconveniences herein provided against: And further, that if any person or persons shall at any time be sued for putting in execution any power or authority given by this Act, such person or persons shall and may plead the general issue, and give in evidence the special matter; and if the plaintiff or plaintiffs in such action or actions shall be non-suit, or discontinue his, her, or their action or actions, or a verdict shall be given for the defendant or defendants, or that judgment upon demurrer shall be given for the defendant or defendants, every such defendant or defendants shall have his or their treble costs of suit.

General issue.

Treble costs.

A. D. 1706.
5 Ann. c. 9.

An Act for rendering more effectual an Act passed in the first year of her Majesty's reign, entitled an Act for the better preventing escapes out of the Queen's Bench and Fleet Prisons.

Escape warrant may be granted upon affidavit made in the country.

AND to the intent that the benefit of the said former Act may the more easily be had, in case the person or persons escaping shall be seen in places distant from the city of London; be it further enacted, that it shall and may be lawful to and for any one of the judges of the respective courts in the the said former Act mentioned, to grant like warrant and warrants, upon oath in writing to be made before any person commissioned under the seal of the same court to take affidavits in the country, (the same oath being first duly filed) as by the same former Act he is impowered to do upon like oath made before himself.

Persons may be apprehended by warrant on a Sunday.

And be it declared and enacted, that it is and shall be lawful to apprehend and take, upon the Lord's day, any person or persons by virtue of any warrant or warrants granted in pursuance of this or of the said former Act.

Persons in custody of sheriff on a decree, and making his escape, sheriff liable to pay, &c.

And be it further enacted by the authority aforesaid, that if any person or persons is, are or shall be in custody of any sheriff or other officer, either by virtue of the said Act, or of this present Act, or otherwise, for not performing any decree of the high court of Chancery, or court of Exchequer, whereby any sum or sums of money is ordered or decreed to be paid, and shall afterwards make any escape from the said sheriff or other officer, that then and in such case the person and persons, their executors or administrators, to whom the money was to be paid by the said decree, shall have the same remedy against the said sheriff, as if such person or persons so escaping had been in custody upon an execution at law, and shall and may recover the several sum and sums of money decreed to be paid to him, her, or them, in and by such decree, against such sheriff or other officer, together with his, her, or their costs of suit, in any action or actions of debt, or upon the case, to be brought or commenced against such sheriff or other officer in any of her Majesty's courts of record at Westminster, wherein no protection or wager of law shall be admitted, or any more than one imparlance; any law, usage, or custom to the contrary in any wise notwithstanding.

Act to be a general law.

And for the prevention of disputes touching this present Act; be it enacted by the authority aforesaid, that the same and every clause and thing therein contained, shall be adjudged and taken to be a general law, and that it shall not be needful to set forth the same in pleading, or any part thereof.

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A. D. 1712.

(The following Act is inserted by Grimke in his Appendix, No. 1, p. 19, but upon no express authority that I can find. Judge Brevard pronounces it obsolete, a dictum of no authority. The Act seems to me a very important one.)

An Act for the more effectual Discovery of the death of Persons pretended to be alive, to the prejudice of those who claim Estates after their Death. A. D. 1707.
6 Ann c. 18.

WHEREAS, divers persons, as guardians and trustees for infants, and husbands in right of their wives, and other persons having estates of interests determinable upon a life or lives, have continued to receive their rents and profits of such lands after the determination of their said particular estates or interests: And whereas, the proof of the death of the persons on whose lives such particular estates or interests depended, is very difficult, and several persons have been, and may be thereby defrauded; for remedy whereof, and for preventing such fraudulent practices, be it enacted, that any person or persons who hath or shall have any claims or demand in or to any remainder, reversion, or expectancy, in or to any estate after the death of any person within age, married woman, or any other persons whatsoever, upon affidavit made in the high court of chancery, by the persons so claiming such estate, of his or her title, and that he or she hath cause to believe that such minor, married woman, or other person is dead, and that his or her death is concealed by such guardian, trustee, husband, or any other person, shall and may once a year, if the person aggrieved shall think fit, move the lord chancellor, keeper, or commissioners for the custody of the great seal of Great Britain for the time being, to order, and they are hereby authorised and required to order such guardian, trustee, husband, or other person, concealing or suspected to conceal such person, at such time and place as the said court shall direct, on personal or other due service of such order, to produce and shew to such person and persons (not exceeding two) as shall in such order be named by the party or parties prosecuting such order, such minor, married woman, or other person aforesaid; and if such guardian, trustee, husband, or such other person as aforesaid, shall refuse or neglect to produce or shew such infant, married woman, or such other person, on whose life any such estate doth depend, according to the directions of the said order, that then the court of chancery is hereby authorised and required to order such guardian, trustee, husband, or other person, to produce such minor, married woman, or other person concealed, in the said court of chancery or otherwise before commissioners to be appointed by the said court, at such time and place as the court shall direct, two of which commissioners shall be nominated by the party or parties prosecuting such order, at his, her, or their costs and charges; and in case such guardian, trustee, husband, or other person, shall refuse or neglect to produce such infant, married woman, or other person so concealed, in the court of chancery, or before such commissioners, whereof return shall be made by such commissioners, and that return filed in the Petty Bag office, in either or any of the said cases, the said minor, married woman, or such other person so concealed, shall be taken to be dead, and it shall be lawful for any person claiming any right, title or interest in remainder or reversion, or otherwise, after the death of such infant, married woman, or such other persons so concealed, as aforesaid, to enter upon such lands, tenements and hereditaments, as if such infant, married woman, or other person so concealed, were actually dead.

19 Car. 2. c. 6.
Person claiming estate in remainder, &c. after death of minor, married woman, &c. on affidavit, &c. that he hath cause to believe such minor, &c. is dead, Lord

Chancellor to cause such minor, &c. to be produced, &c. Guardian, &c. refusing to produce such infant, &c.

Party so concealed to be taken to be dead, and claimant may enter on land, &c.

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On affidavit
that minor, &c.
is beyond sea,
claimant may
send over per-
sons to view
such minor, &c.

II. And be it further enacted, That if it shall appear to the said court by affidavit, that such minor, married woman, or other person, for whose life such estate is holden, is or lately was at some certain place beyond the seas in the said affidavit to be mentioned, it shall and may be lawful for the party or parties prosecuting such order, as aforesaid, at his, her, or their costs and charges, to send over one or both the said persons appointed by the said order, to view such minor, married woman, or other person, for whose life any such estate is holden; and in case such guardian, trustee, husband, or other person concealing or suspected to conceal such persons as aforesaid, shall refuse or neglect to produce or procure to be produced to such person or persons, a personal view of such infant, married woman, or other person, for whose life any such estate is holden, that then and in such case such person or persons are hereby required to make a true return of such refusal or neglect to the court of chancery, which return shall be filed in the Petty Bag office, and thereupon such minor, married woman, or other person, for whose life any such estate is holden, shall be taken to be dead; and it shall be lawful for any person claiming any right, title, or interest, in remainder, reversion, or otherwise, after the death of such infant, married woman, or other person for whose life any such estate is holden, to enter upon such lands, tenements and hereditaments, as if such infant, married woman, or other person, for whose life any such estate is holden, were actually dead.

If infant, &c.
alive, after or-
der made, such
infant, &c. may
re-enter.

III. Provided always, That if it shall afterwards appear upon proof, in any action to be brought, that such infant, married woman, or other person, for whose life any such estate is holden, were alive at the time of such order made, that then it shall be lawful for such infant, married woman, guardian, or trustee, or other person having any estate or interest, determinable upon such life, to re-enter upon the said lands, tenements, or hereditaments, and for such infant, married woman, or other person, having any estate or interest determinable upon such life, their executors, administrators or assigns, to maintain an action against those who, since the said order, received the profits of such lands, tenements, or hereditaments, or their executors or administrators, and therein to recover full damages for the profits of the same received, from the time that such infant, married woman, or other person, having any estate or interest determinable upon such life, were ousted of the possession of such lands, tenements, or hereditaments.

If guardian, &c.
prove that he
hath used his
endeavours to
procure such
infant to appear
and that he was
then living, &c.
guardian to con-
tinue in posses-
sion, &c.

IV. Provided always, That if any such guardian, trustee, husband, or other person or persons, holding or having any estate or interest determinable upon the life or lives of any other person or persons, shall by affidavit or otherwise, to the satisfaction of the said court of chancery, make appear, That he, she, or they have used his, her or their utmost endeavours to procure such infant, married woman, or other person or persons, on whose life or lives such estate or interest doth depend, to appear in the said court of chancery, or elsewhere, according to the order of the said court in that behalf made, and that he, she, or they cannot procure or compel such infant, married woman, or other person or persons so to appear, and that such infant, married woman, or other person or persons, on whose life or lives such estate or interest doth depend, is, are, or were living at the time of such return made and filed as aforesaid, then it shall be lawful for such person or persons to continue in the possession of such estate, and receive the rents and profits thereof for and during the infancy of such infant, and

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the life or lives of such married woman, or other person or persons, on whose life or lives such estate or interest doth or shall depend, as fully as he, she, or they might have done if this Act had not been made.

V. And be it further enacted, That every person who, as guardian or trustee for any infant, and every husband seized in right of his wife only, and every other person having any estate determinable upon any life or lives, who after the determination of such particular estates or interests, without the express consent of him, her, or them, who are or shall be next and immediately intitled upon and after the determination of such particular estates of interests, shall hold over and continue in possession of any manors, messuages, lands, tenements or hereditaments, shall be and are hereby adjudged to be trespassers; and that every person and persons, his, her, and their executors and administrators, who are or shall be intitled to any such manors, messuages, lands, tenements and hereditaments, upon or after the determination of such particular estates or interests, shall and may recover in damages against every such person or persons so holding over as aforesaid, and against his, her, or their executors, or administrators, the full value of the profits received during such wrongful possession as aforesaid.

Guardian, &c. holding estates and after determination of life of minor, &c. adjudged trespassers.

Heirs, &c. may recover damages.

(Inserted as explanatory of the Colonial Currency.)

An Act for ascertaining the rates of Foreign Coins in her Majesty's Plantations in America.

A. D. 1707-
6 Ann. c. 9.

WHEREAS, for remedying the inconveniences which had arisen from the different rates at which the same species of foreign silver coins did pass in her Majesty's several colonies and plantations in America, her most excellent Majesty has thought fit, by her royal proclamation, bearing date the eighteenth day of June, one thousand seven hundred and four, and in the third year of her reign, to settle and ascertain the currency of foreign coins in her said colonies and plantations, in the manner and words following:

We having had under our consideration the different rates at which the same species of foreign coins do pass in our several colonies and plantations in America, and the inconveniences thereof, by the indirect practice of drawing the money from one plantation to another, to the great prejudice of the trade of our subjects; and being sensible that the same cannot be otherwise remedied, than by reducing of all foreign coins to the same current rate within all our dominions in America; and the principal officers of our mint having laid before us a table of the value of the several foreign coins which usually pass in payments in our said plantations, according to their weight, and the assays made of them in our mint, thereby shewing the just proportion which each coin ought to have to the other, which is as followeth, viz. Sevil pieces of eight, old plate, seventeen penny weight twelve grains, four shillings and six pence; Sevil pieces of eight, new plate, fourteen penny weight, three shillings, seven pence, one farthing; Mexico pieces of eight, seventeen penny weight twelve grains, four shillings and six pence; Pillar pieces of eight, seventeen penny weight twelve grains, four shillings and six pence three farthings; Peru pieces of eight, old plate, seventeen penny weight twelve grains, four shillings and five pence, or thereabouts; cross dollars, eighteen penny weight, four shillings and four pence three farthings; ducatoons of Flan-

Proclamation for ascertaining the currency of foreign coins in America.

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ders, twenty penny weight and twenty-one grains, five shillings and six pence; ecu's of France, or silver Lewis, seventeen penny weight twelve grains, four shillings and six pence; crusadoes of Portugal, eleven penny weight four grains, two shillings and ten pence one farthing; three gilder pieces of Holland, twenty penny weight and seven grains, five shillings and two pence one farthing; old rix dollars of the empire, eighteen penny weight and ten grains, four shillings and six pence; the halves, quarters, and other parts in proportion to their denominations, and light pieces in proportion to their weight: we have therefore thought fit for remedying the said inconveniences, by the advice of our council, to publish and declare, that from and after the first day of January next ensuing the date hereof, no Sevil, Pillar, or Mexico pieces of eight, though of the full weight of seventeen penny weight and an half, shall be accounted, received, taken, or paid within any of our said colonies or plantations, as well those under proprietors and charters, as under our immediate commission and government, at above the rate of six shillings per piece current money, for the discharge of any contracts or bargains to be made after the said first day of January next, the halves, quarters, and other lesser pieces of the same coins to be accounted, received, taken or paid, in the same proportion; and the currency of all pieces of eight of Peru, dollars, and other foreign species of silver coins, whether of the same or baser alloy, shall after the said first day of January next, stand regulated, according to their weight and fineness, according and in proportion to the rate before limited and set for the pieces of eight of Sevil, Pillar, and Mexico; so that no foreign silver coin of any sort be permitted to exceed the same proportion upon any account whatsoever; and we do hereby require and command all our governors, lieutenant governors, magistrates, officers, and all other our good subjects, within our said colonies and plantations, to observe and obey our directions herein, as they tender our displeasure.

For enforcing
the due execu-
tion of procla-
mation,

Persons after
May 1st, 1709,
paying or re-
ceiving any
foreign silver
coins at a high-
er rate than is
regulated, to
suffer 6 months
imprisonment,
and forfeit £10.

II. And whereas, notwithstanding the said proclamation, the same indirect practices as are therein mentioned, are still carried on within some of the said colonies or plantations, and the money thereby drawn from one plantation to another, in prejudice of the trade of her Majesty's subjects; wherefore, for the better enforcing the due execution of her Majesty's said proclamation throughout all the said colonies and plantations, and for the more effectual remedying the said inconveniences thereby intended to be remedied, be it enacted by the Queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That if any person within any of the said colonies or plantations, as well those under proprietors or charters, as under her Majesty's immediate commission and government, shall after the first day of May, which shall be in the year of our Lord one thousand seven hundred and nine, for the discharge of any contracts or bargains to be thereafter made, account, receive, take, or pay any of the several species of foreign silver coins mentioned in the before recited proclamation, at any greater or higher rate than at which the same is thereby regulated, settled, and allowed, to be accounted, received, taken or paid, every such person so accounting, receiving, taking, or paying the same, contrary to the directions therein contained, shall suffer six months imprisonment, without bail or main-prize; any law, custom or usage in any of the said colonies or plantations to the contrary hereof in any wise notwithstanding; and shall likewise forfeit the sum of ten pounds for every such offence; one moiety thereof

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to her Majesty, her heirs and successors, the other moiety to such person or persons as shall sue for the same, to be recovered by action of debt, bill, plaint, or information, in any of her Majesty's courts of justice within any of the said plantations, or in any of the courts of justice of the charter or proprietary governments where such offence shall be committed.

III. Provided nevertheless, and it is hereby declared, That nothing in the before recited proclamation or in this Act contained shall extend, or be construed to compel any person to receive any of the said species of foreign silver coins, at the respective rates in the said proclamation mentioned. Proviso.

IV. Provided also, and it is hereby further declared, That nothing in this Act contained shall extend, or be construed to restrain her Majesty from regulating and settling the several rates of the said species of foreign silver coins within any of the said colonies or plantations, in such other manner, and according to such other rates and proportions, as her Majesty by her royal proclamation for that purpose to be issued, shall from time to time judge proper and necessary, or from giving her royal assent to any law hereafter to be made in any of the said colonies or plantations, for settling and ascertaining the current rates of such coins within the said colonies or plantations; but that such further regulations may be made, and such assent given, in as full and ample manner, to all intents and purposes, as the same might have been done in case this Act had not been made, and no otherwise; any thing herein before contained to the contrary hereof in any wise notwithstanding.

Queen may regulate the several species hereafter, in such other manner as she shall judge necessary.

(The following Act is inserted under the authority of the 11th section of the Act of Dec. 12 1712. See *Atchison vs. Gee*, 4 McCord's Rep. 211: And *Corley vs. Berry*, 1 Bail. Rep. 593.)

** An Act for the better Preventing of excessive and deceitful Gaming.*

A. D. 1710.
9 Ann. c. 14.

WHEREAS, the laws now in force for preventing the mischiefs which may happen by gaming, have not been found sufficient for that purpose; Therefore, for the further preventing of all excessive and deceitful gaming, be it enacted, That from and after the first day of May, 1711, all notes, bills, bonds, judgments, mortgages or other securities or conveyances whatsoever, given, granted, drawn, or entered into, executed by any person or persons whatsoever, where the whole or any part of the consideration of such conveyance or securities, shall be for any money, or other valuable thing whatsoever, won by gaming or playing at cards, dice, table, tennis, bowls, or other game or games whatsoever, or by betting on the sides or hands of such as do game at any of the games aforesaid, or for the reimbursing or repaying any money knowingly lent or advanced for such gaming or betting as aforesaid, or lent or advanced at the time and place of such play, to any person or persons so gaming or abetting as aforesaid, or that shall, during such play, so play or abett, shall be utterly void, frustrate, and of none effect, to all intents and purposes whatsoever; any statute, law, or usage to the contrary thereof in any wise notwithstanding; and that where such mortgages, securities or other conveyances, shall be of lands, tenements or hereditaments, or shall be such as incumber or affect the same, such mortgages, securities or other conveyances, shall enure and be to and for the sole use and benefit of, and shall be void.

16 Car. 2. c. 7.
After May 1, 1711, all notes, &c. mortgages, &c. where the consideration is for money won by gaming, or for repayment of money lent at such gaming, &c. shall be void. And where such mortgages, &c. shall incumber any land, &c. they shall devolve to such person as should have been intitled to them, in case such grantor had been dead, &c. And all conveyances to hinder such lands, &c. from devolving, &c.

* The following Statutes of Ann are made of force by the 11th section of A. A. Dec. 12, 1712, which declares indeed that all the Acts passed since the 8th year of her reign, shall be of force, but these are all which appear capable of operation here.

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shall devolve upon such person or persons as should or might have or be intitled to such lands, tenements or hereditaments, in case the said grantor or grantors thereof, or the person or persons so incumbering the same, had been naturally dead, and as if such mortgage, securities or other conveyances had been made to such person or persons so to be intitled after the decease of the person or persons so incumbering the same; and that all grants or conveyances to be made for the preventing of such lands, tenements or hereditaments, from coming to or devolving upon such person or persons hereby intended to enjoy the same as aforesaid, shall be deemed fraudulent and void, and of none effect, to all intents and purposes whatsoever.

The loser of 10*l.* at cards, &c. may sue for the money within three months. And if the loser does not sue, &c. any other person may, &c. and recover with treble value; one moiety to the informer, the other to the poor.

II. And from and after the said first day of May, 1711, any person or persons whatsoever, who shall at any time or sitting, by playing at cards, dice, table or other game or games whatsoever, or by betting on the sides or hands of such as do play at any of the games aforesaid, lose to any one or more person or persons so playing or betting, in the whole the sum or value of £10, and shall pay or deliver the same or any part thereof, the person or persons so losing and paying or delivering the same, shall be at liberty within three months then next, to sue for and recover the money or goods so lost and paid or delivered, or any part thereof, from the respective winner and winners thereof, with costs of suit, by action of debt founded on this Act, to be prosecuted in any court of record, in which actions or suits, no essoin, protection, wager of law, privilege of parliament, or more than one imparlance, shall be allowed; in which actions it shall be sufficient for the plaintiff to alledge, that the defendant or defendants are indebted to the plaintiff, or received to the plaintiff's use, the monies so lost and paid, or converted the goods won of the plaintiff to the defendant's use, whereby the plaintiff's actions accrued to him, according to the form of this statute, without setting forth the special matter; and in case the person or persons who shall lose such money or other thing as aforesaid, shall not within the time aforesaid, really and *bona fide*, and without covin or collusion, sue, and with effect prosecute for the money or other thing, so by him or them lost, and paid and delivered as aforesaid, it shall and may be lawful to and for any person or persons, by any such action or suits as aforesaid, to sue for and recover the same, and treble the value thereof, with costs of suit, against such winner or winners as aforesaid; the one moiety thereof to the use of the person or persons that will sue for the same, and the other moiety to the use of the poor of the parish where the offence shall be committed.

The person sued shall answer upon oath, to discover the money won.

III. And for the better discovery of the monies or other things so won, and to be sued for and recovered as aforesaid, it is hereby further enacted, That all and every the person or persons, who by virtue of this present Act shall or may be liable to be sued for the same, shall be obliged and compellable to answer upon oath such bill or bills as shall be preferred against him or them, for discovering the sum and sums of money, or other things so won at play as aforesaid.

The person who shall so discover and repay, shall be indemnified from further punishment.

IV. Provided, That upon the discovery and repayment of the money, or other thing so to be discovered and repaid as aforesaid, the person or persons who shall discover and repay the same as aforesaid, shall be acquitted, indemnified and discharged from any further or other punishment, forfeiture or penalty, which he or they may have incurred by the playing for, or winning such money or other thing so discovered and repaid

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as aforesaid; any former or other statute, law or usage or any thing in this present Act contained to the contrary thereof in any wise notwithstanding.

V. And if any person or persons whatsoever, at any time or times, after the said first day of May, 1711, do or shall, by any fraud or shift, cousenage, circumvention, deceit or unlawful device or ill practice whatsoever, in playing at or with cards, dice or any the games aforesaid, or in or by bearing a share or part in the stakes, wagers or adventures, or in or by betting on the sides or hands of such as do or shall play as aforesaid, win, obtain or acquire to him or themselves, or to any other or others, any sum or sums of money or other valuable thing or things whatsoever, or shall at any one time or sitting, win of any one or more person or persons whatsoever, above the sum or value of £10; that then every person or persons so winning by such ill practice as aforesaid, or winning at any one time or sitting above the said sum or value of £10, and being convicted of any of the said offences upon an indictment or information to be exhibited against him or them for that purpose, shall forfeit five times the value of the sum or sums of money, or other thing so won as aforesaid; and in case of such ill-practice as aforesaid, shall be deemed infamous, and suffer such corporal punishment as in cases of wilful perjury; and such penalty to be recovered by such person or persons as shall sue for the same by such action as aforesaid.

Any person winning by fraud, &c. above £10, at one sitting, and convicted thereof, on indictment, &c. shall forfeit five times the value, be deemed infamous, and suffer as in cases of wilful perjury.

VI. And whereas divers lewd and dissolute persons live at great expences, having no visible estate, profession or calling to maintain themselves, but support those expences by gaming only; Be it therefore enacted, That it shall and may be lawful for any two or more justices of the peace, in any county, city or liberty whatsoever, to cause to come or to be brought before them, every such person or persons within their respective limits, whom they shall have just cause to suspect to have no visible estate, profession or calling to maintain themselves by, but do for the most part support themselves by gaming; and if such person or persons shall not make it appear to such justices, that the principal part of his or their expences is not maintained by gaming, that then such justices shall require of him or them sufficient securities for his or their good behaviour for the space of twelve months; and in default of his or their finding such securities, to commit him or them to the common gaol, there to remain until he or they shall find such securities as aforesaid.

Two Justices may cause persons who have no visible estate &c. to be bro't before them, and unless they make it appear that they do not maintain themselves by gaming, shall find sureties for their good behavior for 12 months or be committed.

VII. And if such person or persons so finding securities as aforesaid, shall during the time for which he or they shall be so bound to the good behaviour, at any one time or sitting, play or bett for any sum or sums of money or other thing, exceeding in the whole the sum or value of 20s. that then such playing shall be deemed or taken to be a breach of his or their behaviour, and a forfeiture of the recognizance given for the same.

Persons so finding sureties and playing for 20s. during the time, shall forfeit recognizance.

VIII. And for the preventing of such quarrels as shall and may happen upon the account of gaming, be it further enacted, That in case any person or persons whatsoever, shall assault and beat, or shall challenge or provoke to fight any other person or persons whatsoever, upon account of any money won by gaming, playing or betting at any of the games aforesaid, such person or persons assaulting and beating, or challenging or provoking to fight such other person or persons upon the account aforesaid, shall, being thereof convicted upon an indictment or information to be exhibited against him or them for that purpose, forfeit to her Majesty, her heirs and successors, all his goods, chattles and personal estate whatsoever,

Assaulting, &c. on account of money won at play, to forfeit all his goods, and be imprisoned 2 years.

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and shall also suffer imprisonment without bail or mainprise, in the common gaol of the county where such conviction shall be had, during the term of two years.

This Act shall not extend to prevent gaming in any of the Queens palaces during her residence there.

IX. Provided always, That nothing in this Act contained shall extend to prevent or hinder any person or persons from gaming or playing at any of the games aforesaid, within any of her Majesty's palaces of St. James or Whitehall, during such time as her Majesty, her heirs or successors, shall be actually resident at either of the said two palaces, or in any other royal palaces where her Majesty, her heirs or successors, shall be actually resident, during the time of such actual residence, so as such playing be not in any house, lodging, or other part of any of the said palaces, the freehold or inheritance whereof is or shall be out of the crown, or is or shall be in lease to any person or persons, during such time as such freehold and inheritance shall be out of the crown, or such lease shall continue, and so as such playing shall be for ready money only.

(Inserted on authority of Section 11 of the Act of Dec. 12, 1712.)

A. D. 1710.
9 Ann. c. 20.

* *An Act for rendering the Proceedings upon Writs of Mandamus and Informations in the nature of a Quo Warranto, more speedy and effectual; and for the more easy Trying and Determining the Rights of Offices and Franchises in Corporations and Boroughs.*

After the first day of Trinity Term, 1711, returns to writs of Mandamus out of Queen's Bench, &c. shall be made to the first writ.

WHEREAS, divers persons have of late illegally intruded themselves into, and have taken upon themselves to execute the offices of mayors, bailiffs, portreeves and other offices, within cities, towns corporate, boroughs and places, within that part of Great Britain called England and Wales; and where such offices were annual offices, it hath been found very difficult, if not impracticable, by the laws now in being, to bring to a trial and determination the right of such persons to the said offices within the compass of the year; and where such offices were not annual offices, it hath been found difficult to try and determine the right of such persons to such offices, before they have done divers acts in their said offices prejudicial to the peace, order and good government within such cities, towns corporate, boroughs and places, wherein they have respectively acted: And whereas divers persons, who had a right to such offices, or to be burgesses or freemen of such cities, towns corporate, boroughs or places, have either been illegally turned out of the same, or have been refused to be admitted thereto, having in many of the said cases no other remedy to procure themselves to be respectively admitted or restored to their said offices or franchises of being burgesses or freemen, than by writs of *Mandamus*, the proceedings on which are very dilatory and expensive, whereby great mischiefs have already ensued, and more are likely to ensue, if not timely prevented: For remedy whereof, be it enacted, That from and after the first day of Trinity term, in the year of our Lord 1711, where any writ of *Mandamus* shall issue out of the Court of Queen's bench, the courts of sessions of counties palatine, or out of any the courts of grand sessions in Wales, in any of the cases aforesaid, such person or persons, who by the laws of this realm are required to make a return to such writ of *Mandamus*, shall make his or their return to the first writ of *Mandamus*.

* See Section 11 of Act of Dec. 12, 1712.

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II. And from and after the said first day of Trinity term, as often as in any of the cases aforesaid, any writ of *Mandamus* shall issue out of any of the said courts, and a return shall be made thereunto, it shall and may be lawful to and for the person or persons suing or prosecuting such writ of *Mandamus*, to plead to, or traverse all or any the material facts contained within the said return; to which the person or persons making such return shall reply, take issue, or demur; and such further proceedings, and in such manner shall be had therein, for the determination thereof, as might have been had if the person or persons suing such writ had brought his or their action on the case for a false return; and if any issue shall be joined on such proceedings, the person or persons suing such writ shall and may try the same in such place as an issue joined in such action on the case should or might have been tried; and in case a verdict shall be found for the person or persons suing such writ or judgment given for him or them upon a demurrer, or by *Nil dicit*, or for want of a replication or other pleading, he or they shall recover his or their damages and costs in such manner as he or they might have done in such action on the case as aforesaid; such costs and damages to be levied by *Capias ad Satisfaciendum*, *Fieri Facias*, or *Elegit*; and a peremptory writ of *Mandamus* shall be granted without delay, for him or them for whom judgment shall be given, as might have been, if such return had been adjudged insufficient; and in case judgment shall be given for the person or persons making such return to such writ, he or they shall recover his or their costs of suit, to be levied in manner aforesaid.

As soon as the return is made, the prosecutor in such writ may plead, &c. to which the person returning, may reply. How the proceedings shall be.

III. Provided, That if any damages shall be recovered by virtue of this Act against any such person or persons making such return to such writ, as aforesaid, he or they shall not be liable to be sued in any other action or suit, for the making such return; any law, usage or custom to the contrary thereof in any wise notwithstanding.

Persons against whom damages shall be recovered, not liable to be sued in other actions.

IV. And from and after the said first day of Trinity term, in case any person or persons shall usurp, intrude into, or unlawfully hold and execute any of the said offices or franchises, it shall and may be lawful to and for the proper officer in each of the said respective courts, with the leave of the said courts respectively, to exhibit one or more information or informations in the nature of a *Quo Warranto*, at the relation of any person or persons desiring to sue or prosecute the same, and who shall be mentioned in such information or informations to be the relator or relators against such person or persons, so usurping, intruding into, or unlawfully holding and executing any of the said offices or franchises, and to proceed therein in such manner as is usual in cases of information in the nature of a *Quo Warranto*; and if it shall appear to the said respective courts, that the several rights of divers persons to the said offices or franchises may properly be determined on one information, it shall and may be lawful for the said respective courts to give leave to exhibit one such information against several persons, in order to try their respective rights to such offices or franchises, and such person or persons, against whom such information or informations in the nature of a *Quo Warranto* shall be sued or prosecuted, shall appear and plead as of the same term or sessions in which the said information or informations shall be filed, unless the court where such information shall be filed, shall give further time to such person or persons, against whom such information shall be exhibited, to plead; and such person or persons, who shall sue or prosecute such information or informations in the nature of a *Quo Warranto*, shall proceed thereupon

How Informations in the nature of a *Quo Warranto* may be exhibited against such as intrude, &c. into offices, &c.

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with the most convenient speed that may be, any law or usage to the contrary thereof in any wise notwithstanding.

Judgment of
Ouster shall be
given against
persons found
guilty of such
usurpation, &c.
and the Relator
shall recover
costs: If judg-
ment be given
for defendant,
he shall have
costs against
the Relator.

V. And from and after the said first day of Trinity terms, in case any person or persons, against whom any information or informations in the nature of a *Quo Warranto* shall in any of the said cases, be exhibited in any of the said courts, shall be found or adjudged guilty of an usurpation, or intrusion into, or unlawfully holding and executing any of the said offices, or franchises, it shall and may be lawful to and for the said courts respectively, as well to give judgment of *Ouster* against such person or persons, of and from any of the said offices or franchises, as to fine such person or persons respectively, for his or their usurping, intruding into, or unlawfully holding and executing any of the said offices or franchises; and also it shall and may be lawful to and for the said courts respectively, to give judgment, that the relator or relators, in such information named, shall recover his or their costs of such prosecution; and if judgment shall be given for the defendant or defendants in such information, he or they, for whom such judgment shall be given, shall recover his or their costs therein expended against such relator or relators; such costs to be levied in manner aforesaid.

The court may
allow a conven-
ient time to
return a manda-
mus, plead,
reply, &c.

VI. And it shall and may be lawful to and for the said courts respectively, to allow to such person or persons respectively, to whom any writ of *Mandamus* shall be directed, or against whom any information in the nature of a *Quo Warranto*, in any of the cases aforesaid, shall be sued or prosecuted, or to the person or persons who shall sue or prosecute the same, such convenient time respectively, to make a return, plead, reply, rejoin, or demur, as to the said courts respectively shall seem just and reasonable; any thing herein contained to the contrary thereof in any wise notwithstanding.

The Act 4 Ann,
c. 16, and all
the statutes of
jeofayles, shall
be extended to
writs of Man-
damus, &c.
32 H. 8. c. 30.

VII. After the said first day of Trinity Term, an Act made in the fourth year of her Majesty's reign, entitled, An Act for the amendment of the law, and the better advancement of Justice, and all the statutes of jeofayles, shall be extended to all writs of *Mandamus*, and informations in the nature of a *Quo Warranto*, and proceedings thereon, for any the matters, in this Act mentioned.

18 El. c. 14. 27 El. c. 5. 21 Ja. 1, c. 13. 16 & 17 Car. 2. c. 8.

(The following Act of 5 George 2, ch. 7. A. D. 1732, is inserted under the authority of the 5th section of the Insolvent Debtor's Act of April 7th, 1759; also because it is expressly extended to the Plantations and Colonies in America.)

An Act for the more easy recovery of Debts in his Majesty's Plantations and Colonies in America.

Preamble.

After the 29th
of September,
plantation debts
may be proved,
here, on oath
before the chief
magistrates.

WHEREAS, his Majesty's subjects trading to the British Plantations in America, lie under great difficulties, for want of more easy methods of proving, recovering and levying of debts due to them, than are now used in some of the said plantations; and whereas, it will tend very much to the retrieving of the credit, formerly given by the trading subjects of Great Britain, to the natives and inhabitants of the said plantations, and to the advancing of the trade of this kingdom thither, if such inconveniencies were remedied; Therefore be it enacted, &c. that from and after the 29th day of September, 1732, in any action or suit then depending, or thereafter to be brought in any court of law or equity in any of the said planta-

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tions, for or relating to any debt or account, wherein any person residing in Great Britain shall be a party, it shall and may be lawful, to and for the plaintiff or defendant, and also, to and for any witness to be examined or made use of in such action or suit, to verify or prove any matter or thing, by affidavit, or affidavits in writing upon oath, or in case the person making such affidavit, be one of the people called quakers, then, upon his or her solemn affirmation made before any mayor or other chief magistrate of the city, borough, or town corporate, in Great Britain, where or near to which, the person making such affidavit or affirmation shall reside, and certified and transmitted under the common seal of such city, borough or town corporate, or the seal of the office of such mayor or other chief magistrate, which oath and solemn affirmation, every such mayor and chief magistrate, shall be and is hereby authorised and empowered to administer, and every affidavit or affirmation so made, certified and transmitted, shall in all such actions and suits be allowed to be of the same force and effect, as if the person or persons making the same upon solemn oath or affirmation as aforesaid, had appeared and sworn or affirmed the matters contained in such affidavit or affirmation, *viva voce* in open court, or upon a commission issued for the examination of witnesses, or of any party in any such action or suit respectively; Provided, that in every such affidavit and affirmation there shall be expressed the addition of the party making such affidavit or affirmation and the particular place of his or her abode. Proviso.

II. And in all suits now depending or hereafter to be brought in any court of law or equity, by or in behalf of his majesty, his heirs and successors, in any of the said plantations for or relating to any debt or account; that his majesty, his heirs and successors, shall and may prove his or their debts and accounts, and examine his or their witness or witnesses by affidavit or affirmation, in like manner as any subject or subjects is or are empowered or may do, by this present act. Debts to his majesty may be proved in the same manner.

III. Provided, that if any person making such affidavit upon oath or solemn affirmation as aforesaid, shall be guilty of falsely and wilfully swearing or affirming any matter or thing in such affidavit or affirmation, which if the same had been sworn upon an examination in the usual form, would have amounted to wilful and corrupt perjury, every person so offending and being thereof lawfully convicted, shall incur the same penalties and forfeitures, as by the laws and statutes of this realm, are provided against persons convicted of wilful and corrupt perjury. Penalty on false oath or affirmation.

IV. And from and after the said twenty-ninth day of September, in the year of our Lord one thousand seven hundred and thirty-two, the houses, lands, negroes and other hereditaments and real estates, situate or being within any of the said plantations, belonging to any person indebted, shall be liable to and chargable with all just debts, duties and demands, of what nature or kind soever, owing by any such person to his majesty, or any of his subjects, and shall and may be assets for the satisfaction thereof, in like manner as real estates are by the laws of England liable to the satisfaction of debts due by bond or other speciality, and shall be subject to the like remedies, proceedings and process, in any court of law or equity, in any of the said plantations respectively, for seizing, extending, selling or disposing of any such houses, lands, negroes, and other hereditaments and real estates, towards the satisfaction of such debts, duties and demands, &c. in like manner as personal estates in any of the said plantations respectively are seized, extended, sold or disposed of, for the satisfaction of debts. Lands, houses, negroes, &c. in the plantations, liable to be sold for debt.

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(The following act is inserted on the authority of 1 McCord's Reports, 302, and 2 McCord's Reports, 31; see also 3 McCord's Reports, 41, on distress for rent.)

A. D. 1738.
11 Geo. 2, ch. 19.

An act for the more effectual securing the payment of Rents and preventing frauds by Tenants.

Preamble.

WHEREAS, the several laws heretofore made for the better security of rents, and to prevent frauds committed by tenants, have not proved sufficient to obtain the good ends and purposes designed thereby, but rather the fraudulent practices of tenants, and the mischief intended by the said acts to be prevented, have of late years increased, to the great loss and damage of their lessors or landlords; for remedy whereof, may it please your most excellent majesty, that it may be enacted, and be it enacted by the King's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That from and after the twenty-fourth day of June, in the year of our Lord one thousand seven hundred and thirty-eight, in case any tenant or tenants, lessee or lessees for life or lives, term of years, at will, sufferance, or otherwise, of any messuages, lands, tenements, or hereditaments, upon the demise or holding whereof any rent is or shall be reserved, due or made payable, shall fraudulently or clandestinely convey away, or carry off or from such premises, his, her, or their goods or chattels, to prevent the landlord or lessor, landlords or lessors, from distraining the same for arrears of rent so reserved, due or made payable; it shall and may be lawful to and for every landlord or lessor, landlords or lessors, within that part of Great Britain called England, dominion of Wales, or the town of Berwick upon Tweed, or any person or persons by him, her, or them for that purpose lawfully empowered, within the space of thirty days next ensuing such conveying away or carrying off such goods or chattels, as aforesaid, to take and seize such goods and chattels, wherever the same shall be found, as a distress for the said arrears of rent; and the same to sell, or otherwise dispose of, in such manner as if the said goods and chattels had actually been distrained by such lessor or landlord, lessors or landlords, in and upon such premises for such arrears of rent; any law, custom, or usage, to the contrary in any wise notwithstanding.

Landlords may
distrain and sell
goods fraudu-
lently carried
off the prem-
ises, within thirty
days.

Unless sold to
any person not
privity to the
fraud.

II. Provided always, that no landlord or lessor, or other person intitled to such arrears of rent, shall take or seize any such goods or chattels as a distress for the same, which shall be sold *bona fide*, and for a valuable consideration, before such seizure made, to any person or persons not privy to such fraud as aforesaid; any thing herein contained to the contrary notwithstanding.

Penalty on the
said fraud, or
assisting there-
to.

III. And to deter tenants from such fraudulent conveying away their goods and chattels, and others from wilfully aiding or assisting therein, or concealing the same; be it further enacted by the authority aforesaid, that from and after the said twenty-fourth day of June, if any such tenant or lessee shall fraudulently remove and convey away his or her goods or chattels as aforesaid, or if any person or persons shall wilfully and knowingly aid or assist any such tenant or lessee in such fraudulent conveying away or carrying off of any of his or her goods or chattels, or in concealing the same; all and every person and persons so offending shall forfeit and pay to the landlord or landlords, lessor or lessors, from whose estate such goods and chattels were fraudulently carried off as aforesaid, double the value of the goods by him, her or them respectively carried off or concealed as aforesaid; to be recovered by action of debt in any of his majesty's

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courts of record at Westminster, or in the courts of session in the counties palatine of Chester, Lancaster, or Durham, respectively, or in the courts of grand sessions in Wales; wherein no essoin, protection, or wager of law, shall be allowed, nor more than one imparlance.

IV. Provided always, and be it enacted by the authority aforesaid, that If the goods exceed not the value of £50 landlords to have recourse to 2 justices. where the goods and chattles so fraudulently carried off or concealed shall not exceed the value of fifty pounds, it shall and may be lawful for the landlord or landlords, from whose estate such goods or chattels were removed, his, her, or their bailiff, servant, or agent, in his, her, or their behalf, to exhibit a complaint in writing against such offender or offenders, before two or more justices of the peace of the same county, riding, or division of such county, residing near the place whence such goods and chattels were removed, or near the place where the same were found, not being interested in the lands or tenements whence such goods were removed; who may summon the parties concerned, examine the fact, and all proper witnesses, upon oath, or if any such witness be one of the people called quakers, upon affirmation required by law; and in a summary way determine, whether such person or persons be guilty of the offence, with which he or they are charged; and to enquire in like manner of the value of the goods and chattels by him, her, or them respectively so fraudulently carried off or concealed as aforesaid; and upon full proof of the offence, by order under their hands and seals, the said justices of peace may and shall adjudge the offender or offenders to pay double the value of the said goods and chattels to such landlord or landlords, his, her, or their bailiff, servant, or agent, at such time as the said justices shall appoint; and in case the offender or offenders having notice of such order, shall refuse or neglect so to do, may and shall, by warrant under their hands and seals, levy the same by distress and sale of the goods and chattels of the offender or offenders; and for want of such distress, may commit the offender or offenders to the house of correction, there to be kept at hard labor without bail or mainprize for the space of six months, unless the money so ordered to be paid as aforesaid shall be sooner satisfied.

V. Provided also, That it shall and may be lawful for any person, who thinks himself aggrieved by such order of the said two justices, to appeal to the justices of peace at their next general or quarter sessions to be held for the same county, riding or division of such county, who may and shall hear and determine such appeal, and give such costs to either party as they shall think reasonable, whose determination therein shall be final.

VI. Provided also, That where the party appealing shall enter into a recognizance with one or two sufficient surety or sureties in double the sum so ordered to be paid, with condition to appear at such general or quarter sessions, the order of the said two justices shall not be executed against him in the mean time.

VII. And be it further enacted by the authority aforesaid, That where any goods or chattels fraudulently or clandestinely conveyed or carried away by any tenant or tenants, lessee or lessees, his, her, or their servant or servants, agent or agents, or other person or persons aiding or assisting therein, shall be put, placed, or kept in any house, barn, stable, out-house, yard, close, or place locked up, fastened or otherwise secured, so as to prevent such goods or chattels from being taken and seized as a distress for arrears of rent; it shall and may be lawful for the landlord or landlords, lessor or lessors, his, her, or their steward, bailiff, receiver, or other person or persons empowered to take and seize, as a distress for

A. D. 1719.

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rent, such goods and chattels (first calling to his, her, or their assistance the constable, headborough, borshoulder, or other peace officer of the hundred, borough, parish, district, or place, where the same shall be suspected to be concealed, who are hereby required to aid and assist therein; and in case of a dwelling-house, oath being also first made before some justice of the peace of a reasonable ground to suspect that such goods or chattels are therein,) in the day-time, to break open and enter into such house, barn, stable, out-house, yard, close, and place, and to take and seize such goods and chattels for the said arrears of rent, as he, she, or they might have done by virtue of this or any former act, if such goods and chattels had been put in any open field or place.

and may distress stock or cattle on the premises, for arrears of rent.

VIII. And be it further enacted by the authority aforesaid, That from and after the said twenty-fourth day of June, which shall be in the year of our Lord one thousand seven hundred and thirty-eight, it shall and may be lawful to and for every lessor or landlord, lessors or landlords, or his, her, or their steward, bailiff, receiver or other person or persons empowered by him, her or them, to take and seize, as a distress for arrears of rent, any cattle or stock of their respective tenant or tenants, feeding or depasturing upon any common, appendant or appurtenant, or any ways belonging to all or any part of the premises demised or holden; and also to take and seize all sorts of corn and grass, hops, roots, fruits, pulse, or other product whatsoever, which shall be growing on any part of the estates so demised or holden, as a distress for arrears of rent; and the same to cut, gather, make, cure, carry, and lay up, when ripe, in the barns, or other proper place on the premises so demised or holden; and in case there shall be no barn or proper place on the premises so demised or holden, then in any other barn or proper place which such lessor or landlord, lessors or landlords, shall hire or otherwise procure for that purpose, and as near as may be to the premises; and in convenient time to appraise, sell or otherwise dispose of the same, towards satisfaction of the rent for which such distress shall have been taken, and of the charges of such distress, appraisement, and sale, in the same manner as other goods and chattels may be seized, distrained, and disposed of; and the appraisement thereof to be taken when cut, gathered, cured, and made, and not before.

Tenants to have notice of the place where the distress is lodged.

Distress of corn &c. to cease, if rent be paid before it be cut.

IX. Provided always, That notice of the place where the goods and chattels so distrained shall be lodged or deposited, shall within the space of one week after the lodging or depositing thereof in such place, be given to such lessee or tenant, or left at the last place of his or her abode; and that if after any distress for arrears of rent so taken, of corn, grass, hops, roots, fruits, pulse, or other product which shall be growing as aforesaid, and at any time before the same shall be ripe and cut, cured or gathered, the tenant or lessee, his or her executors, administrators, or assigns, shall pay, or cause to be paid to the lessor or landlord, lessors or landlords, for whom such distress shall be taken, or to the steward or other person usually employed to receive the rent of such lessor or lessors, landlord or landlords, the whole rent which shall be then in arrear, together with the full cost and charges of making such distress, and which shall have been occasioned thereby; that then, and upon such payment, or lawful tender thereof actually made, whereby the end of such distress will be fully answered, the same and every part thereof shall cease; and the corn, grass, hops, roots, fruits, pulse, or other product so distrained, shall be delivered up to the lessee or tenant, his or her executors, administrators, or assigns; any thing herein before contained to the contrary notwithstanding.

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X And whereas great difficulties and inconveniencies frequently arise to landlords and lessors and other persons taking distresses for rent, in removing the goods and chattels or stock distrained, off the premises, in cases where by law they may not be impounded and secured thereupon; and also to the tenants themselves many times, by the damage unavoidably done to such goods and chattels, or stock, in the removal thereof; be it enacted by the authority aforesaid, That from and after the said twenty-fourth day of June, one thousand seven hundred and thirty-eight, it shall and may be lawful to and for any person or persons lawfully taking any distress for any kind of rent, to impound, or otherwise to secure the distress so made of what nature or kind soever it may be, in such place, or on such part of the premises chargeable with the rent, as shall be most fit and convenient for the impounding and securing such distress; and to appraise, sell, and dispose of the same upon the premises, in like manner, and under the like directions and restraints to all intents and purposes, as any person taking a distress for rent may now do off the premises, by virtue of an act made in the second year of the reign of King William and Queen Mary, intituled, an act for enabling the sale of goods distrained for rent, in case the rent be not payed in a reasonable time; or of one other act made in the fourth year of his present majesty, intituled, an Act for the more effectual preventing frauds committed by tenants, and for the more easy recovery of rents, and renewal of leases; and that it shall and may be lawful to and for any person or persons whatsoever, to come and go to and from such place or part of the said premises, where any distress for rent shall be impounded and secured as aforesaid, in order to view, appraise, and buy, and also in order to carry off or remove the same, on account of the purchaser thereof; and that if any pound-breach or rescous shall be made of any goods and chattels, or stock distrained for rent, and impounded or otherwise secured by virtue of this act, the person or persons aggrieved thereby, shall have the like remedy, as in cases of pound-breach or rescous is given and provided by the said statute.

Distresses may be secured, and sold on the premises.

² W. & M. c. 5.

⁴ Geo. 2. c. 28

XI. And whereas the possession of estates in lands, tenements, and hereditaments, is rendered very precarious by the frequent and fraudulent practice of tenants, in attorning to strangers, who claim title to the estates of their respective landlord or landlords, lessor or lessors, who by that means are turned out of possession of their respective estates, and put to the difficulty and expence of recovering the possession thereof, by actions or suits at law; for remedy thereof, be it enacted by the authority aforesaid, That from and after the said twenty-fourth day of June, in the year of our Lord one thousand seven hundred and thirty-eight, all and every such attornment and attornments of any tenant or tenants of any messuages, lands, tenements, or hereditaments, within that part of Great Britain called England, dominion of Wales, or town of Berwick upon Tweed, shall be absolutely null and void, to all intents and purposes whatsoever; and the possession of their respective landlord or landlords, lessor or lessors, shall not be deemed or construed to be any wise changed, altered, or affected, by any such attornment or attornments: *Exception.* Provided always, that nothing herein contained shall extend to vacate or affect any attornment made pursuant to and in consequence of some judgment at law, or decree or order of a court of equity, or made with the privity and consent of the landlord or landlords, lessor or lessors, or to any mortgagee after the mortgage is become forfeited.

Attornment of tenants, void.

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XII. And whereas great inconveniences have frequently happened to landlords by their tenants secreting declarations in ejectment, which have been delivered to them, or by refusing to appear to such ejectments, or to suffer their landlords to take upon them the defence thereof; be it further enacted by the authority aforesaid, That from and after the said twenty-fourth day of June, one thousand seven hundred and thirty-eight, every tenant to whom any declaration in ejectment shall be delivered for any lands, tenements, or hereditaments, in that part of Great Britain called England, dominion of Wales, or town of Berwick upon Tweed, shall forthwith give notice thereof to his or her landlord or landlords, or his, her, or their bailiff or receiver, under penalty of forfeiting the value of three years improved or rack rent of the premises so demised or holden in the possession of such tenant, to the person of whom he or she holds; to be recovered by action of debt to be brought in any of his Majesty's courts of record at Westminster, or in the counties palatine of Chester, Lancaster, and Durham, respectively, or in the courts of grand-sessions in Wales; wherein no essoin, protection, or wager of law, shall be allowed, nor any more than one imparlance.

Landlord im-
powered to
make himself
defendant by
joining with the
tenant, &c.

XIII. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the court where such ejectment shall be brought, to suffer the landlord or landlords to make him, her, or themselves defendant or defendants, by joining with the tenant or tenants, to whom such declaration in ejectment shall be delivered, in case he or they shall appear; but in case such tenant or tenants shall refuse or neglect to appear, judgment shall be signed against the casual ejector for want of such appearance; but if the landlord or landlords of any part of the lands, tenements, or hereditaments, for which such ejectment was brought, shall desire to appear by himself or themselves, and consent to enter into the like rule, that by the course of the court the tenant in possession in case he or she had appeared ought to have done; then the court where such ejectment shall be brought shall and may permit such landlord or landlords so to do, and order a stay of execution upon such judgment against the casual ejector, until they shall make further order therein.

Rents how to
be recovered,
where the de-
mises are not
by deed.

XIV. And to obviate some difficulties that many times occur in the recovery of rents, where the demises are not by deed, be it further enacted by the authority aforesaid, That from and after the said twenty-fourth day of June it shall and may be lawful to and for the landlord or landlords, where the agreement is not by deed, to recover a reasonable satisfaction for the lands, tenements, or hereditaments, held or occupied by the defendant or defendants, in an action on the case, for the use and occupation of what was so held or enjoyed; and if in evidence on the trial of such action any parol demise or any agreement (not being by deed,) whereon a certain rent was reserved, shall appear, the plaintiff in such action shall not therefore be nonsuited, but may make use thereof as an evidence of the *Quantum* of the damages to be recovered.

Rents recover-
able from un-
der-tenant,
where tenants

XV. And whereas where any lessor or landlord, having only an estate for life in the lands, tenements, or hereditaments demised, happens to die before or on the day, on which any rent is reserved, or made payable, such rent, or any part thereof, is not by law recoverable by the executors or administrators of such lessor or landlord; nor is the person in reversion entitled thereto, any other than for the use and occupation of such lands, tenements, or hereditaments, from the death of the tenant for life; of which advantage hath been often taken by the under-tenants, who thereby avoid paying any

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thing for the same; for remedy thereof, be it enacted by the authority aforesaid, that from and after the twenty-fourth day of June, one thousand seven hundred and thirty-eight, where any tenant for life shall happen to die before or on the day, on which any rent was reserved or made payable upon any demise or lease of any lands, tenements, or hereditaments, which determined on the death of such tenant for life, that the executors or administrators of such tenant for life shall and may in an action on the case recover of and from such under-tenant or under-tenants of such lands, tenements, or hereditaments, if such tenant for life die on the day on which the same was made payable, the whole, or if before such day, then a proportion of such rent, according to the time such tenant for life lived, of the last year, or quarter of a year, or other time in which the said rent was growing due as aforesaid, making all just allowances or a proportionable part thereof respectively.

for life die before the rent is payable.

XVI. And whereas landlords are often great sufferers by tenants running away in arrear, and not only suffering the demised premises to lie uncultivated, without any distress thereon, whereby their landlords or lessors might be satisfied for the rent-arrear, but also refusing to deliver up the possession of the demised premises, whereby the landlords are put to the expence and delay of recovering in ejectment; be it further enacted by the authority aforesaid, That from and after the said twenty-fourth day of June, one thousand seven hundred and thirty-eight, if any tenant holding any lands, tenements, or hereditaments, at a rack-rent, or where the rent reserved shall be full three-fourths of the yearly value of the demised premisses, who shall be in arrear for one year's rent, shall desert the demised premisses, and leave the same uncultivated or unoccupied, so as no sufficient distress can be had to countervail the arrears of rent; it shall and may be lawful to and for two or more justices of the peace of the county, riding, division, or place (having no interest in the demised premisses) at the request of the lessor or landlord, lessors or landlords, or his, her, or their bailiff or receiver, to go upon and view the same, and to affix, or cause to be affixed, on the most notorious part of the premisses, notice in writing, what day (at the distance of fourteen days at least) they will return to take a second view thereof; and if upon such second view, the tenant, or some person on his or her behalf, shall not appear and pay the rent in arrear, or there shall not be sufficient distress upon the premisses, then the said justices may put the landlord or landlords, lessor or lessors, into the possession of the said demised premisses; and the lease thereof to such tenant, as to any demise therein contained only, shall from thenceforth become void.

Provision for landlords, where tenants desert the premisses.

XVII. Provided always, That such proceedings of the said justices shall be examinable in a summary way by the next justice or justices of assize of the respective counties, in which such lands or premisses lie; and if they lie in the city of London or county of Middlesex, by the judges of the courts of King's Bench or Common Pleas; and if in the counties palatine of Chester, Lancaster, or Durham, then before the judges thereof; and if in Wales, then before the courts of grand-sessions respectively; who are hereby empowered to order restitution to be made to such tenant, together with his or her expences and costs, to be paid by the lessor or landlord, lessors or landlords, if they shall see cause for the same; and in case they shall affirm the act of the said justices, to award costs not exceeding five pounds for the frivolous appeal.

Tenants may appeal from the justices.

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Tenants holding premises after the time they notify for quitting them, to pay double rent.

XVIII. And whereas great inconveniencies have happened, and may happen to landlords, whose tenants have power to determine their leases, by giving notice to quit the premises by them holden, and yet refusing to deliver up the possession, when the landlord hath agreed with another tenant for the same; be it further enacted by the authority aforesaid, That from and after the said twenty-fourth day of June, one thousand seven hundred and thirty-eight, in case any tenant or tenants shall give notice of his, her, or their intention to quit the premises by him, her or them holden, at a time mentioned in such notice, and shall not accordingly deliver up the possession thereof at the time in such notice contained, that then the said tenant or tenants, his, her or their executors or administrators, shall from thenceforward pay to the landlord or landlords, lessor or lessors, double the rent or sum, which he, she or they should otherwise have paid; to be levied, sued for, and recovered at the same times, and in the same manner, as the single rent or sum before the giving such notice could be levied, sued for, or recovered; and such double rent or sum shall continue to be paid, during all the time such tenant or tenants shall continue in possession as aforesaid.

2 W. & M. c. 5. XIX. And whereas it hath sometimes happened, that upon a distress made for rent justly due, the directions of the statute made in the second year of the reign of King William and Queen Mary, intituled, An Act for enabling the sale of goods distrained for rent, in case the rent be not paid within a reasonable time, have not been strictly pursued, but through the mistake or inadvertency of the landlord or other person intituled to such rent and distraining for the same, or of the bailiff or agent of such landlord or other person, some irregularity or tortious act hath been afterwards done in the disposition of the distress so seized or taken, as aforesaid; for which irregularity or tortious act the party distraining hath been deemed a trespasser *ab initio*, and in an action brought against him as such, the plaintiff hath been intituled to recover, and has actually recovered, the full value of the rent, for which such distress was taken; and whereas it is a very great hardship upon landlords and other persons entitled to rents, that a distress duly made should be thus in effect avoided for any subsequent irregularity; be it enacted by the authority aforesaid, That from and after the said twenty-fourth day of June, in the year of our Lord one thousand seven hundred and thirty-eight, where any distress shall be made for any kind of rent justly due, and any irregularity or unlawful act shall be afterwards done by the party or parties distraining, or by his, her, or their agents, the distress itself shall not be therefore deemed to be unlawful, nor the party or parties making it be deemed a trespasser or trespassers *ab initio*; but the party or parties aggrieved by such unlawful act or irregularity, shall or may recover full satisfaction for the special damage he, she or they shall have sustained thereby, and no more, in an action of trespass or on the case, at the election of the plaintiff or plaintiffs: Provided always, That where the plaintiff or plaintiffs shall recover in such action, he, she or they shall be paid his, her or their full costs of suit, and have all the like remedies for the same as in other cases of costs.

Distresses for rent not unlawful, &c for any irregularity therein;

nor tenants to recover by action, on tender of amends.

XX. Provided nevertheless, That no tenant or tenants, lessee or lessees, shall recover in any action for any such unlawful act or irregularity as aforesaid, if tender of amends hath been made by the party

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or parties distraining, his, her or their agent or agents, before such action brought.

XXI. And be it further enacted by the authority aforesaid, That from and after the said twenty-fourth day of June, one thousand seven hundred and thirty-eight, in all actions of trespass or upon the case, to be brought against any person or persons intitled to rents or services of any kind, his, her, or their bailiff or receiver, or other person or persons, relating to any entry by virtue of this Act, or otherwise, upon the premises chargeable with such rents or services, or to any distress or seizure, sale or disposal of any goods or chattles thereupon, it shall and may be lawful to and for the defendant or defendants in such actions to plead the general issue, and give the special matter in evidence; any law or usage to the contrary notwithstanding; and in case the plaintiff or plaintiffs in such action shall become nonsuit, discontinue his, her, or their action, or have judgment against him, her or them, the defendant or defendants shall recover double costs of suit.

In actions against persons entitled to rent, the defendant may plead the general issue.

XXII. And whereas great difficulties often arise in making avowries or conuzaunce upon distresses for rent, quit-rents, reliefs, heriots, and other services; be it further enacted by the authority aforesaid, That from and after the said twenty-fourth day of June, one thousand seven hundred and thirty-eight, it shall and may be lawful to and for all defendants in replevin to avow or make conuzaunce generally, that the plaintiff in replevin, or other tenant of the lands and tenements whereon such distress was made, enjoyed the same under a grant or demise at such a certain rent, during the time wherein the rent distrained for incurred, which rent was then and still remains due; or that the place where the distress was taken was parcel of such certain tenements, held of such honor, lordship or manor, for which tenements the rent, relief, heriot or other service distrained for, was at the time of such distress and still remains due; without further setting forth the grant, tenure, demise or title of such landlord or landlords, lessor or lessors, owner or owners of such manor; any law or usage to the contrary notwithstanding; and if the plaintiff or plaintiffs in such action shall become nonsuit, discontinue his, her or their action, or have judgment given against him, her or them, the defendant or defendants in such replevin shall recover double costs of suit.

Defendants in replevin to avow, &c. that the plaintiff held the premises at a certain rent, &c.

XXIII. And to prevent vexatious replevins of distresses taken for rent, be it enacted by the authority aforesaid, That from and after the said twenty-fourth day of June, one thousand seven hundred and thirty-eight, all sheriffs and other officers having authority to grant replevins, may and shall in every replevin of a distress for rent, take, in their own names, from the plaintiff, and two responsible persons as sureties, a bond in double the value of the goods distrained (such value to be ascertained by the oath of one or more credible witness or witnesses not interested in the goods or distress, which oath the person granting such replevin is hereby authorized and required to administer) and conditioned for prosecuting the suit with effect and without delay, and for duly returning the goods and chattels distrained in case a return shall be awarded, before any deliverance be made of the distress; and that such sheriff, or other officer as aforesaid, taking any such bond, shall at the request and costs of the avowant or person making conuzaunce, assign such bond to the avowant or person aforesaid, by indorsing the same, and attesting it under his hand and seal, in the presence of two or more credible witnesses; which may be done without any stamp, provided the assignment so indorsed be duly stamped

To prevent vexatious replevins.

Replevin bonds may be assigned.

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before any action brought thereupon; and if the bond so taken and assigned be forfeited, the avowant, or person making any comuzance, may bring an action and recover thereupon in his own name; and the court where such action shall be brought may by a rule of the same court give such relief to the parties upon such bond, as may be agreeable to justice and reason; and such rule shall have the nature and effect of a defeazance to such bond:

(The following Act of Parliament is inserted, having been expressly extended to the Colonies and Plantations.)

A. D. 1752. *An Act for avoiding and putting an end to certain doubts and questions*
25 Geo. 2. c. 6. *relating to the attestation of Wills and Codicils concerning Real Estates, in that part of Great Britain called England, and in his Majesty's Colonies and Plantations in America.*

Preamble. WHEREAS, by an Act made in the twenty-ninth year of the reign of his late Majesty, King Charles the Second, intituled, An Act for the prevention of Frauds and Perjuries, it is amongst other things enacted, that from and after the twenty-fourth day of June, in the year of our Lord one thousand six hundred and seventy-seven, all devises and bequests of any lands or tenements devisable, either by force of the Statute of Wills, or by that statute, or by force of the custom of Kent, or the custom of any borough, or any other particular custom, shall be in writing and signed by the party so devising the same, or by some other person in his presence and by his express direction; and shall be attested and subscribed in the presence of the said devisor, by three or four credible witnesses, or else they shall be utterly void and of none effect, which hath been found to be a wise and good provision; but whereas doubts have arisen, who are to be deemed legal witnesses within the intent of the said Act; therefore, for avoiding the same, Be it enacted by the King's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That if any person shall attest the execution of any will or codicil which shall be made after the twenty-fourth day of June, in the year of our Lord one thousand seven hundred and fifty-two, to whom any beneficial devise, legacy, estate, interest, gift or appointment of or affecting any real or personal estate, other than and except charges on lands, tenements and hereditaments, for payment of any debt or debts, shall be thereby given or made, such devise, legacy, estate, interest, gift or appointment, shall so far only as concerns such person attesting the execution of such will or codicil, or any person claiming under him, be utterly null and void; and such person shall be admitted as a witness to the execution of such will or codicil, within the intent of the said Act; notwithstanding such devise, legacy, estate, interest, gift or appointment, mentioned in such will or codicil.

Enactment.

When devise is to be void towards a witness.

Creditor may attest the execution of a will or codicil charging lands, &c. with his debt.

II. And be it further enacted by the authority aforesaid, That in case by any will or codicil already made, or hereafter to be made, any lands, tenements or hereditaments, are or shall be charged with any debt or debts, and any creditor whose debt is so charged, hath attested, or shall attest the execution of such will or codicil, every such creditor, not-

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withstanding such charge, shall be admitted as a witness to the execution of such will or codicil, within the intent of the said Act.

III. And be it further enacted by the authority aforesaid, That if any person hath attested the execution of any will or codicil already made, or shall attest the execution of any will or codicil which shall be made on or before the said twenty-fourth day of June, in the year of our Lord one thousand seven hundred and fifty-two; to whom any legacy or bequest is or shall be thereby given, whether charged upon lands, tenements, or hereditaments, or not; and such person before he shall give his testimony concerning the execution of any such will or codicil, shall have been paid, or have accepted or released, or shall have refused to accept such legacy or bequest, upon tender made thereof, such person shall be admitted as a witness to the execution of such will or codicil, within the intent of the said Act, notwithstanding such legacy or bequest.

A legatee having received his legacy, may attest the will.

IV. Provided always, and be it further enacted, That in case of such tender and refusal as aforesaid, such person shall in no wise be entitled to such legacy or bequest, but shall be forever afterwards barred therefrom; and in case of such acceptance as aforesaid, such person shall retain to his own use the legacy or bequest which shall have been so paid, satisfied, or accepted; notwithstanding such will or codicil shall afterwards be adjudged or determined to be void for want of due execution, or for any other cause or defect whatsoever.

Provided that in case of refusal the person shall be barred forever, and in case of acceptance he take it whether the will be afterwards adjudged void or not.

V. And be it further enacted by the authority aforesaid, That in case any such legatee as aforesaid, who hath attested the execution of any will or codicil already made, or shall attest the execution of any will or codicil which shall be made on or before the said twenty-fourth day of June, in the year of our Lord one thousand seven hundred and fifty-two, shall have died in the life-time of the testator, or before he shall have received or released the legacy or bequest so given to him as aforesaid, and before he shall have refused to receive such legacy or bequest, on tender made thereof, such legatee shall be deemed a legal witness to the execution of such will or codicil, within the intent of the said Act, notwithstanding such legacy or bequest.

If legatee died in the life-time of the testator, in or before acceptance or refusal of legacy, his testimony good.

VI. Provided always, that the credit of every such witness so attesting the execution of any will or codicil, in any of the cases in this Act before mentioned, and all circumstances relating thereto, shall be subject to the consideration and the determination of the court and the jury, before whom any such witness shall be examined, or his testimony or attestation made use of; or of the court of equity, in which the testimony or attestation of any such witness shall be made use of; in like manner to all intents and purposes, as the credit of witnesses in all other cases ought to be considered of and determined.

Provided that the credit of such witness be liable to the same consideration as that of any other.

VII. And be it further enacted by the authority aforesaid, That no person to whom any beneficial estate, interest, gift or appointment, shall be given or made, which is hereby enacted to be null and void as aforesaid, or who shall have refused to receive any such legacy or bequest, on tender made as aforesaid, and who shall have been examined as witness concerning the execution of such will or codicil, shall, after he shall have been so examined, demand, or take possession of, or receive, any profits or benefits of or from any such estate, interest, gift, or appointment, so given or made to him, in or by any such will or codicil; or demand, receive, or accept from any person or persons whatsoever, any such legacy

No person after being examined as a witness, shall take any thing under the will or codicil.

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or bequest, or any satisfaction or compensation for the same, in any manner or under any colour or pretence whatsoever.

Cases to which
this Act shall
not extend.

VIII. Provided always, and be it further enacted by the authority aforesaid, That this Act or any thing herein contained, shall not extend, or be construed to extend, to the case of any heir at law, or of any devisee in a prior will or codicil of the same testator, executed and attested according to the said recited Act, or any person claiming under them respectively, who has been in quiet possession for the space of two years next preceding the sixth day of May, in the year of our Lord one thousand seven hundred and fifty-one, as to such lands, tenements, and hereditaments, whereof he has been in quiet possession as aforesaid; and also that this Act or any thing herein contained, shall not extend, or be construed to extend, to any will or codicil, the validity or due execution whereof, hath been contested in any suit in law or equity, commenced by the heir of such devisor, or the devisee in any such prior will or codicil, for recovering the lands, tenements or hereditaments, mentioned to be devised in any will or codicil so contested, or any part thereof, or for obtaining any other judgement or decree relative thereto, on or before the said sixth day of May, in the year of our Lord one thousand seven hundred and fifty-one, and which has been already determined in favour of such heir at law, or devisee, in such prior will or codicil, or any person claiming under them respectively, or which is still depending and has been prosecuted with due diligence; but the validity of every such will or codicil, and the competency of the witnesses thereto, shall be adjudged and determined in the same manner to all intents and purposes, as if this Act had never been made; any thing herein before contained to the contrary thereof, in any wise notwithstanding.

Exception to
the above
clause.

IX. Provided always nevertheless, and it is hereby declared, that no possession of any heir at law, or devisee, in such prior will or codicil as aforesaid, or of any person claiming under them respectively, which is consistent with, or may be warranted by or under any will or codicil, attested according to the true intent and meaning of this Act, or where the estate descended or might have descended to such heir at law, till a future or executory devise, by virtue of any will or codicil attested according to this Act, should or might take effect, shall be deemed to be a possession within the intent and meaning of the clause herein last before contained.

Preamble.

X. And whereas, in some of the British colonies or plantations in America, the said Act of the twenty-ninth year of the reign of King Charles the Second, has been received for law, or Acts of Assembly have been made, whereby the attestation and subscription of witnesses to devises of lands, tenements, and hereditaments, have been required; therefore to prevent and avoid doubts which may arise in the said colonies or plantations, in relation to the attestation of such devises of lands, tenements, and hereditaments, be it enacted by the authority aforesaid, That this Act, and every clause, matter, and thing therein contained, shall extend to such of the said colonies and plantations, where the said Act of the twenty-ninth year of the reign of King Charles the Second, is by Act of Assembly made, or by usage received as law, or where by Act of Assembly or usage, the attestation and subscription of a witness or witnesses are made necessary to devises of lands, tenements, or hereditaments; and shall have the same force and effect in the construction of, or for avoiding of doubts upon the said Acts of Assembly, and laws of the said colonies and plantations, as the same ought to have in the construction of, or for the avoiding of

This Act made
of force in all
the colonies
wherein the 29
C 2. is of force.

doubts upon the said Act of the twenty-ninth year of the reign of King Charles the Second in England. A. D. 1712.

XI. Provided always, That as to cases arising in any of the said colonies or plantations in America, no such devise, legacy or bequest, as aforesaid, shall be made null and void by virtue of this Act, unless the will or codicil whereby such devise, legacy or bequest shall be given, shall be made after the first day of March which shall be in the year of our Lord one thousand seven hundred and fifty-three. Provided the devise to which this Act relates shall have been made since March 1, 1753.

AN ACT FOR SETTLING THE TITLES OF THE INHABITANTS OF THIS PROVINCE, TO THEIR POSSESSIONS IN THEIR ESTATES WITHIN THE SAME, AND FOR LIMITATIONS OF ACTIONS, AND FOR AVOIDING SUITS IN LAW. No. 323.

WHEREAS, nothing can conduce more to the peace and tranquillity of this Province, than the quieting the estates of the inhabitants thereof, for the effecting whereof, and the avoiding of suits in law, *Be it enacted*, by the most noble Prince Henry Duke of Beaufort, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, and by the authority of the same, That all possessions of or titles to any lands, tenements or hereditaments whatsoever, within this Province, derived from any grant from the lords proprietors or the persons authorized by them to take and sign grants for lands, or from any settlements, or deeds of gift for the same, or from any sales or other conveyances of the same, for lawful or valuable considerations, made either by the executors of any person deceased, or any other persons lawfully empowered to sell the lands of the deceased, or by husbands in right of their wives, the wife joining in the conveyance if the right or inheritance of the lands were in the wife, or by endorsement of patents, or by any decree in chancery, or by any last will or testament, or by any other lawful conveyance or assurance in the law whatsoever; and also, where the person or persons now in the possession of the said lands, tenements or hereditaments within this Province, do possess, hold and claim the same as of his, her or their proper right, in fee-simple, and the person or persons so in possession, or the person or persons under whom they claim, have been quietly possessed, and without lawful interruption enjoyed the same severally or successively for the space of seven years last past; that such person or persons so in possession as aforesaid, shall have good right and title to the same, and shall have, hold and enjoy the said lands, tenements and hereditaments, unto him or them, his or their heirs or assigns, for ever, in fee-simple, against all and every person or persons whatsoever, excepting any person or persons beyond the seas, or out of the limits of this Province, or their assigns, or who claims under such persons, or derive their titles from them, or feme covert, or imprisoned; Provided, they prosecute their respective titles and claims within three years after the ratification of this Act. And all actions and process hereafter to be brought by them, or any of them, for the same, are hereby excluded and for ever

Preamble.

Enacted.

That all possessions or titles to lands for seven years, without lawful interruption, shall be good against all claims whatsoever.

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debarred: And also excepted, any person or persons that are under the age of twenty one years, who shall be allowed to prosecute their claims, at any time within two years after they come to age, and if beyond the seas, three years.

Five years allowed to any person to prosecute their right to lands, and 7 years to persons beyond seas, &c.

II. *And be it further enacted* by the authority aforesaid, That if any person or persons to whom any right or title to lands, tenements or hereditaments within this Province, shall hereafter descend or come, do not prosecute the same within five years after such right or title accrued, that then he or they, and all claiming under him and them, shall be for ever barred to recover the same, excepting any person or persons beyond the seas, or out of the limits of this Province, feme covert, or imprisoned, who shall be allowed the space of seven years to prosecute their right or title, or claim to any lands, tenements or hereditaments in this Province, after such right and title accrued to them or any of them, and at no time after the said seven years; and also excepted, any person or persons that are under the age of twenty-one years, who shall be allowed to prosecute their claims at any time within two years after they come to age, and if beyond the seas, three years.

How claims to lands or tenements are to be made.

III. And for the prevention of all disputes that may arise, how claims are to be made to lands and tenements in this Province, and that the same may be ascertained, and the possessors of lands and tenements assured how and in what manner persons having or laying claim to any lands or tenements, ought to lay claim to the same, and also that all persons having right or title to lands or tenements may know how to claim or demand their right in such cases, *Be it enacted* by the authority aforesaid, That all manner of persons whatsoever that are concerned to make claim to any lands or tenements within this Province, so as to make their claim effectual, are to make claim by their action of law, duly entered in the court of common pleas within this Province, according to the former practices and rules of the said court; and that the chief justice or judge of the said court of common pleas do allow of no other claim to lands or tenements, for any persons, plaintiffs in any suit or suits before him, than what is made by their action on records, as aforesaid, any law, usage, custom or practice to the contrary notwithstanding.

Actions bro't for lands, to be prosecuted and brought to trial with all convenient expedition, and not delayed but by special order and rule of court.

IV. And whereas persons having or pretending right and title to lands and tenements in the possession of others, having once made their claim within the time limited and appointed by this Act, may endeavour for ever after to keep their pretence of right or title to the same, by bringing their action or actions by way of claim at law, once in five years, and so again in five years after, and so vex and trouble the persons in possession in such manner forever; for the prevention and removal of which inconveniences, *Be it further enacted* by the authority aforesaid, That all persons whatsoever that shall hereafter make their claim to any lands or tenements within the time limited by this Act, and bring their action for the same, shall proceed upon the said action with that convenient expedition that the nature of the proceeding, and the rules and practices of the court will permit, and shall not delay the same, but by special order or rule of the court, and shall bring the said action to trial; and in case the verdict and judgment are against the plaintiff, or that he discontinue his action, or suffer a nonsuit, or any other ways let fall that action or suit, that such trial and judgment thereupon, or discontinuance, nonsuit or other letting fall the action or suit as aforesaid, shall be conclusive and definitive on the plaintiff's part for ever, and never to bring any action after that for the same, but to be for ever barred, any law, usage, custom or practice to the contrary notwithstanding.

V. *And be it further enacted* by the authority aforesaid, That not only the persons which have not made their claim to any lands or tenements in this Province, within the time limited by this Act, shall be barred, but also that all manner of persons whatsoever, that shall at any time claim under such person or persons who have lost their claim, shall be in like manner barred by this Act, and that this Act, and such clause or clauses in the same, as relate to the matters aforesaid, may be given in evidence, to a jury, upon a tryal of any claim, matter or right to any lands or tenements in question, between party and party, and that the chief justice or judge of the court of common pleas upon all such tryals shall accept the same in evidence, so far as the same shall concern the said matter in difference.

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He who claims under one barred is also barred.

VI. *And be it further enacted* by the authority aforesaid, That all actions of trespass *quare clausum fregit*, all actions of trespass detinue, action *sur trover* and replevin, for taking away of goods and chattles, all actions of account and upon the case (other than such accounts as concern the trade of merchandize between merchant and merchant, their factors or servants) all actions of debt grounded upon any lending or contract without specialty, all actions of debt for arrearages of rent reserved by indenture, all actions of covenants, and all actions of assault, menace, battery, wounding and imprisonment, or any of them, which shall be sued or brought at any time after the ratification of this Act, shall be commenced and sued within the time and limitation hereafter expressed, and not after: that is to say, the said actions upon the case other than for slanders, and the said actions for accounts, and the said actions for trespass, debt, detinue and replevin for goods and chattels, the said actions of covenant, and the said actions of trespass *quare clausum fregit*, within three years next after the ratification of this Act, or within four years next after the cause of such actions or suits, and not after; and the said actions of trespass of assault and battery, wounding, imprisonment, or any of them, within one year next after the ratification of this Act, or within one year next after the cause of such actions or suit, and not after; and the said actions upon the case of words, within six months after the ratification of this Act, or within six months next after the words spoken, and not after.

The limitation of certain personal actions.

VII. And nevertheless be it enacted by the authority aforesaid, that if in any the said actions or suits, judgment be given for the plaintiff, and the same be reversed by error, or a verdict pass for the plaintiff, and upon matter alledged in arrest of judgment, the judgment be given against the plaintiff, that he takes nothing by his plaint, writ or bill; or if any of the said actions shall be brought by original, and the defendant shall be outlawed therein, and shall after reverse the outlawry, that in all such cases the party plaintiff, his heirs, executors and administrators, as the case shall require, may commence a new action or suit from time to time, within one year after such judgment reversed, or judgment given against the plaintiff, or outlawry reversed, and not after.

Limitation after verdict and judgment arrested, or judgment reversed by error, or outlawry reversed.

VIII. *And be it further enacted* by the authority aforesaid, That in all actions of trespass *quare clausum fregit*, hereafter to be brought, wherein the defendant or defendants shall disclaim in his or their plea to make any title or claim to the land in which the trespass is by the declaration supposed to be done, and the trespass be by negligence, or involuntary, the defendant or defendants shall be admitted to plead a disclaimer, and that the trespass was by negligence or involuntary, and a tender or offer of sufficient amends for such trespass, before the action brought, whereupon or upon some of them the plaintiff or plaintiffs shall be inforced to joyn issue, and if the said issue be found for the defendant or defendants, or the plaintiff or plaintiffs shall be nonsuited, the plaintiff or plaintiffs shall

In a Quare Clausum fregit, if the defendant disclaim after judgment or nonsuit, the plaintiff is barred from renewing his suit.

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Actions of slander, if the damages under 40s. no greater costs than damages.

be clearly barred from the said action or actions, and all other suit concerning the same.

IX. *And be it further enacted* by the authority aforesaid, That in all actions upon the case for slanderous words, to be sued or prosecuted by any person or persons in any court of this Province, that hath power to hold pleas of the same, after the ratification of this Act, if the jury upon the tryal of the issue in such action, or the jury that shall enquire of the damages, do find or assess the damages under forty shillings, then the plaintiff or plaintiffs in such action, shall have and recover only so much costs as the damages so given or assessed amount unto, without any further increase of the same, any law, statute, custom or usage to the contrary in any wise notwithstanding.

Proviso.

X. *Provided* nevertheless, and be it further enacted, That if any person or persons is or shall be entituled to any such action of trespass, detainue, action *sur trover*, replevin, actions of accounts, actions of debts, covenant, actions of trespass for assault, menace, battery, wounding or imprisonment, actions upon the case for words, at the time of any such cause of action given or accrued, shall be beyond the seas, or feme covert or imprisoned, shall be at liberty to bring their action at any time within four years after the ratification of this Act, or at any time within five years after such cause of action given or accrued, and at no time after; and also excepting any person or persons that are under the age of twenty-one years, who shall be allowed to bring their action at any time within two years after they come to age, and if beyond the seas, three years.

Penalties and forfeitures when to be sued for.

XI. *And be it further enacted* by the authority aforesaid, That as to all penalties and forfeitures mentioned in any statute or act now in force in this Province, wherein a particular time is not mentioned in the said statutes or acts, for the suing for the said fines and forfeitures by civil process, by action of debt, plaint or information, that the same shall be prosecuted within six months after the cause of action or suit given, and not after.

XII. *Enacted*, That any person that hath cause of action against any executor or administrator, in all cases whatsoever shall bring their action within two years after the death of the testator, or within two years after cause of action.

Actions against executors and administrators when to be prosecuted.

XIII. And whereas it is very necessary to secure all executors or administrators that have formerly acted as such in this Province, that a time may be limited for bringing any action or actions, demand or demands, from any person whatsoever, *Be it enacted* by the authority aforesaid, That after the ratification of this Act, in case any person or persons to whom the deceased is indebted, or hath any manner of demand, claim, right or cause of action whatsoever, against the said executors or administrators, be it by judgment, recognizance, or other debts of record, or by debt upon any bond or obligation, or other specialty, or by covenant, or by account or book debt, or any cause whatsoever, shall make his or their demand by some legal process, suit or action, within two years, if resident in this Province, and in case beyond the seas, three years, and no longer; infants only excepted, who shall have two years after they come of age, if resident here, and if beyond the seas, three years, and no longer, any thing in this Act to the contrary notwithstanding.

Time for redemption of goods and chattles.

XIV. *And be it further enacted* by the authority aforesaid, That any person or persons, or any person for their use, are now actually in the possession of any negroes, plate, gold and silver, or any goods and chattles whatsoever, which were sold and actually delivered to him or them by any person, by bill of sale, by way of mortgage with right of redemption,

under the proviso or provisos mentioned in the said bill of sale, and upon breach of the said proviso or provisos, or any of them, whereby the said negroes, plate, goods or chattles became forfeited, and so of right by the said bill of sale do belong to the person or persons now in possession of the same, or his executors, administrators or assigns, and that the person or persons who should have redeemed the same, neglected the payment of the money, or other legal satisfaction for the redemption thereof, according to the proviso of the bill of sale, for the space of seven years from the time of the breach of such proviso, he or they so neglecting to redeem the things mortgaged as aforesaid, and all other persons neglecting to claim the same, and all persons claiming under them, shall be debarred and forever foreclosed from any right or equity of redemption whatsoever, and the right and property of the said negroes, plate, gold and silver, goods or chattles, so mortgaged and not redeemed within the time aforesaid, shall be vested in the said person or persons to whom the mortgage was so made, or their assigns, to hold to them, their executors, administrators and assigns, as their own proper goods and chattles for ever, without being subject to any right or equity of redemption whatsoever.

A. D. 1712.

XV. *And be it further enacted* by the authority aforesaid, That in all bills of sale hereafter to be made of any negroes, plate, gold and silver, or goods and chattles whatsoever, by way of mortgage, with right of redemption upon performance of the proviso in the said bill of sale, and that the negroes, plate, gold and silver, or goods and chattles, are actually delivered unto the person to whom such bill of sale is made, and are in his actual possession (and not a delivery or seizin in form of law only) and shall continue in the same for the space of two years after the breach of the proviso in the said bill of sale, without redemption thereof, the said goods or chattels so sold and delivered and possessed as aforesaid, though with right or equity of redemption, are hereby declared to be vested in the said person or persons to whom such bill of sale was made, and their executors, administrators and assigns, to have and to hold to them, their executors, administrators and assigns, as their own proper goods and chattels for ever; excepting such person or persons having such right or equity of redemption be beyond the seas, or otherwise out of the limits of this Province, or a feme covert, all which persons shall have saved to them their equity of redemption, so as they prosecute the same within three years after the breach of the proviso of the bill of sale, and at no time after.

Time for redemption of negroes, goods or chattles sold by way of mortgage hereafter.

XVI. And whereas, by this Act, a person being a feme covert is limited as to the time of laying claim to lands or tenements, and to commencing actions or suits of law, and not excepted generally until discovery, and that such person may be no way prejudiced by the same, *Be it further enacted* by the authority aforesaid, That in case any feme covert have any right or claim to any lands or tenements within this Province, or any other action or suit whatsoever, such feme covert shall have power to constitute an attorney under her hand and seal, to prosecute such her claim, action or suit, either in her own name, or in the name of her husband and self, as if her husband had joyned with her in such power of attorney; and such persons so constituted, shall have power to prosecute such suit or claim to effect, and her husband shall not have power to abate, discontinue or release her claim or action, without her voluntary consent given in open court, and recorded in the proceedings; neither shall such suit or action be any way abated upon the account of such woman being under coverture, but the proceedings shall be in all things as good and effectual in law, as if such woman was sole, or her husband joyned with her in such suit;

A feme covert having right to land may appoint an attorney in her own name.

A. D. 1712. any law, statute, act, usage or custom in this Province to the contrary notwithstanding.

A person non compos mentis, may make his claim within 1 year after his coming of sound mind.

XVII. *Provided* nevertheless, and be it enacted by the authority aforesaid, That in case any person or persons that have any right or claim to any lands or tenements in this Province, or to any action, suits, claims or demands whatsoever, before limited by this Act, for the making, bringing or commencing the same, excepting in suits to be brought or prosecuted against executors or administrators, or in the case of redeeming any goods or chattles mortgaged as aforesaid, and shall at the time of such right of claim or cause of action given or accrued, be *non compos mentis*, that in such case such person, notwithstanding the several limitations abovesaid, shall have liberty at any time to make his claim or bring his action or suit, except as before excepted, so as he do the same within one year after coming of sound mind, if resident in this Province, and within two years if beyond the seas, or otherwise out of the limits of this Province, and at no time after.

A former Act repealed.

XVIII. *And be it further enacted* by the authority aforesaid, That one Act of Assembly of this Province, entitled, An Act for Limitation of Actions, and for avoiding and prevention of Suits in Law, ratified in open Assembly the tenth day of March, one thousand six hundred ninety six and seven, and every clause, article, sentence, word, matter and thing contained in the same Act, from henceforth shall be repealed, annulled, revoked and for ever made void, any thing in the said Act to the contrary whatsoever in any wise notwithstanding.

*Read three times, and ratified in open Assembly,
the twelfth day of December, Anno Dom. 1712.*

CHARLES CRAVEN,
CHARLES HART,
ARTHUR MIDDLETON,
THOMAS BROUGHTON,
RALPH IZARD,
SAMUEL EVELEIGH.

No. 324. AN ACT FOR THE BETTER SECURING THE PAYMENT OF DEBTS DUE FROM ANY PERSON INHABITING AND RESIDING BEYOND THE SEA OR ELSE WHERE WITHOUT THE LIMITS OF THIS PROVINCE OF SOUTH CAROLINA, AND TO SUBJECT A FEME COVERT THAT IS A SOLE TRADER TO BE ARRESTED AND SUED FOR ANY DEBT CONTRACTED BY HER AS A SOLE TRADER.

Preamble.

WHEREAS, several persons inhabiting or commonly residing beyond seas, or in other countries or places without the limits of this part of the Province of Carolina, have and still do continue, by their attorneys, agents, managers, overseers, or factors, to make plantations and carry on a trade and commerce in this Province, and often become indebted in considerable sums of money to the inhabitants of the same, which sums of money are denied to be paid to the inhabitants by the said debtors, or their attorneys, agents, managers, overseers or factors, aforementioned, pretending they have only power to manage plantations, sell goods and merchandizes

and sue for debts, but not pay any or put in any pleas or answers in any court of justice to any declaration or bill of complaint filed against their attorneys or employers, residing without the limits of this part of this Province; and other evil persons designing and intending to defraud their creditors of their just dues, have and do deposit their goods and effects in the hands of others, with intent to preserve and secure them to their own use, and so withdrawing themselves out of this Province, or were not inhabitants in the same, whereby the planters, merchants, and other the inhabitants of this Province, are frequently defrauded of the debts justly due to them, to their great damage and sometimes to their ruin. For the prevention of the same for the future,

A.D. 1712.

I. *Be it enacted*, by the most noble Prince Henry Duke of Beaufort, Palatine, and the rest of the true and absolute lords and proprietors of this Province, by and with the advice and consent of the rest of the members of the general assembly, now met at Charlestown, for the south-west part of this Province, and by the authority of the same, That any person being an inhabitant in this Province and resident within the same, having occasion to commence any suit or action in the court of common-pleas, in this Province, against any person or persons residing or being without the limits of this province, upon any action of debt upon specialty, or an action brought upon a bill, note under hand, or upon any balance of account, or in case of a book debt, or for any contract, assumpsit whatsoever or wheresoever, or for any work done, Provided it be done in this Province, upon a petition or request made in writing to the chief justice or judge of the court of common-pleas in this Province, setting forth that the debtor or person against whom the suit is intended to be brought, is gone off from or is absent from this Province and out of the limits of the same, and the said chief justice being satisfied of the truth of the suggestion, of which he is hereby made judge, or in case upon process already taken out against him, the Marshall or his lawful deputy shall return that he cannot find the person, and that he doth believe that the person against whom the writ was taken is not within the limits of this province, and shall give such reasonable proof of such his return, as shall satisfy the chief justice or judge of the court of common pleas, that the person to be defendant is not within the limits of this Province, that in such case or either of them, it shall be lawful for the chief justice or judge of the court of common pleas, to issue out a writ of attachment, directed to the marshal, to attach such money, goods, or chattels, in the hands of the possessors of the same, be they attorney, wife, servant, or any other person whatsoever. And the attaching of any part thereof in the name of the whole, shall secure and make the whole that is in such person's hands liable in the law to answer the judgment recovered upon such process, if so much there be, and no further; and shall be subjected to be taken in execution for satisfaction thereof, or so far as the value thereof will extend; and the person in whose hands they are, shall be obliged to expose them accordingly; and the marshal at the same time that he shall execute such writ of attachment, shall summon either by word of mouth if the person is present, or will be seen, or by writing left at the house or habitation of the person in whose hands the money, goods, chattels, or debts were attached, to appear at the next court of common pleas, to shew cause, if he or they hath any, why the said money, goods, or chattels, attached in their hands, should not be adjudged to belong to the person defendant to the suit; and in case the person so summoned shall not appear, that then upon his or their default, and no other person laying claim to the money, goods or chattels so attached, the same shall be adjudged and taken to be the goods of the defendant. And in

Enacted.
That persons residing out of the Province having an action commenced against them by their Attorneys goods or chattels may be attached.

Writ of attachment to be directed to the Marshal.

A. D. 1712.

Goods attached
not belonging to
the defendant,
the plaintiff
shall pay costs.

The person that
sueth the writ
of attachment
shall file his de-
claration some
time before the
sitting of the
next court of
common Pleas.

Upon filing his
declaration to

case the person or persons so summoned shall appear, he or they laying claim to the money, goods or chattels, and denying the same to belong to the defendant, shall be obliged to answer upon oath all such questions as shall be demanded of him or them by the chief justice, relating to the said money, goods or chattels attached; and in case the person doth deny upon oath that the money, goods or chattels do belong to the defendant, that then, and in such case, the chief justice may order the attachment to be discharged, or so much as is so cleared upon oath. But in case the plaintiff will not rest satisfied in such oath, but will offer to disprove the same by witnesses upon oath or other legal proof, that then and in such case the chief justice having ordered a plain issue or state of the question to be made, shall order a jury to enquire of the same and give their verdict whether the money, goods, or chattels in dispute, do belong to the defendant or not. And in case the money, goods or chattels, shall not be adjudged to belong to the defendant but to the person that layeth claim to the same, or whom he represents, that then in such case the party who summoned the suit, shall pay and satisfy the reasonable costs and charges occasioned to such person, to be taxed in common form by the chief justice or judge of the court. Provided the person in whose hands the money, goods, or chattels were that were attached, did give notice to the officer that executed the writ of attachment at the time of the attachment, or to the said officer or the plaintiff, or as soon as he was informed of the same, that the said money, goods, or chattels attached, did not belong to the defendant.

II. *And be it further enacted*, by the authority aforesaid, that the person that shall sue out such writ of attachment, shall be obliged to file his declaration some time before the sitting of the next court of common pleas, and shall serve the wife or attorney with a copy of the same, together with the special order of the court endorsed upon the said copy, ordering when the defendant shall put in his plea. And the chief justice of the court shall have power to allow the defendant what time he shall think reasonable, not exceeding one year and a day, unless in case of unavoidable accidents and dangers of the seas, to put in his plea or defence, and his attorney to take care to give him notice of the same. And in case the defendant hath no attorney, then the plaintiff shall take care to have the defendant served with a copy of the declaration, the defendant to be allowed a reasonable time for the same, not exceeding one year and a day, unless in case of unavoidable accidents or dangers of the seas; and an affidavit being made of the service of the attested copy of the declaration on the defendant, before any lawful magistrate, lawfully authorized to administer an oath, and the same being attested either under the hand and seal of any of the governors of the plantation or under the corporation seal of the Lord Mayor of London, or any other Mayor or chief officer of any city or town corporate within the Kingdoms of Great Britain or Ireland, or under the notarial seal of any Notary Public in the Kingdoms of Great Britain or Ireland or the Plantations, shall be a sufficient proof of the service of such declaration, and in such case if the defendant shall neglect or refuse to constitute an attorney to appear for him and make his defence, the court may proceed against him by default. But in case it is not known to the court or the plaintiff where the defendant liveth, that so he may be served with a copy of the declaration, that in such case, two years time shall be allowed for the defendant to lay claim to his money, goods, or chattels so attached, and to make his defence.

III. *And be it further enacted*, by the authority aforesaid, that the plaintiff upon filing his declaration, shall give security by entering into Bond to the Right Honorable the Governor, in double the sum demanded, not only

to restore the money, goods or chattels attached by virtue of the writ of attachment, but also to answer damages and double costs of suit to be taxed in common form by the chief justice of the court, in case he shall not prosecute his suit to effect; and shall also make oath to the debt or sum demanded, and that no part of the same is paid, and that he doth not any way or upon any account whatsoever, stand indebted to the defendant, or in case he doth acknowledge that he doth stand indebted to him, that the same shall be allowed and deducted out of the sum demanded of the defendant; and that in all actions brought by attachment, that in case it be upon a book debt, that the plaintiff in his declaration shall give credit for the sum or sums received either in money or the value thereof in goods and merchandizes, and shall bring his suit only for what is really and truly due upon the balance.

A. D. 1 12.
 give security to
 the Governor.

IV. *And be it further enacted*, by the authority aforesaid, that in case If the defendant be indebted to the person in whose hands the money, goods or chattels were, that in such case the person in whose hands or custody the money, goods or chattels were, shall be first allowed his own debt, he giving full proof of the same to the satisfaction of the judge of the court; and so much of the money, goods, or chattels shall be put into his hands as will satisfy his debt, he immediately filing his declaration against the debtor or defendant, and in all things proceeding against him as if the money, goods or chattels had been attached at his suit; and also giving security to the person that sued or took out the writ of attachment, that in case he shall not obtain judgment against the defendant, that the goods so retained in his hands, shall be forthcoming, or the value thereof, to satisfy the judgment that the person shall obtain that sued or took out the writ of attachment.

V. *And be it further enacted*, by the authority aforesaid, that in case If goods attached be perishable, that by warrant or order of the chief justice of the court of common pleas, the same may be sold, and the money arising therefrom either paid into court or into the hands of the person that took out the writ of attachment, he giving security for the same in case he shall not obtain judgment against the defendant.

VI. *And be it further enacted*, by the authority aforesaid, that in case The judgment satisfied, the overplus to be returned. the plaintiff shall obtain judgment against the defendant, that then the money, goods, or chattels attached, shall be liable to satisfy the judgment obtained, and the overplus, if any, to be returned.

VII. *And be it further enacted*, by the authority aforesaid, that in case any judgment shall be obtained against any absent person by writ of attachment pursuant to the directions of this act, that before any execution shall be granted upon such judgment, the plaintiff shall give bond with security to the Honorable the Governor, to answer and satisfy any judgment in any suit that shall be brought against him by the person against whom the present judgment is obtained; provided, that such suit shall be brought within two years after such security given.

VIII. *And be it further enacted*, by the authority aforesaid, that if any person will appear as attorney to the said debtor and put in bail to answer the action and pay the condemnation, that then and in such case the attachment on the said money, goods or chattels, shall be dissolved, and the money, goods or chattels so attached shall remain in the hands of the person who appeareth and gives the bail, as his security to indemnify him in case judgment shall be obtained by the plaintiff, and he shall be obliged to satisfy the same, and the proceedings shall be as before directed, reasonable

Before execution be granted, the plaintiff shall give security to the Governor.

If any person appear for the defendant and put in bail to answer the action, the attachment shall be dissolved.

A. D. 1712.

Proceedings
against an ab-
sent debtor, his
factor or agent,
in case no goods
can be come at
to be attached.

time being allowed for the principal, the defendant, to be served with the declaration and to make his defence.

IX. *And be it further enacted*, by the authority aforesaid, that where no money, goods or chattels of such absent debtor in the hands of his attorney, factor, agent or trustee, shall be exposed to view, or can be come at so as to be attached; yet it shall and may be lawful to and for any creditor to file a declaration against such absent debtor, in the court of common pleas, as if his goods had been attached, and serving such attorney, factor, agent or trustee, with a copy of such declaration; and if judgment be given for the plaintiff, all the money, goods or chattels of the debtor which are in the hands of such attorney, factor, agent or trustee, to the value of such judgment, if so much there be, shall be liable and subjected to the execution granted upon such judgment for or towards satisfying the same; and from the time of serving the copy of the declaration as aforesaid, shall be liable and secured in the law in his hands to answer the same and may not be otherwise disposed of or converted. And in case any attorney, factor, agent or trustee, from and after the time of his being served with summons and declaration as aforesaid, against his principal, (being an absent debtor,) shall transfer, dispose of or convert any of the goods, effects or credits of such debtor in his hands at the time of such service, within what shall satisfy the judgment, the debt being afterwards ascertained by judgment of court given for the same, or that shall not discover, expose, and subject the money, goods or chattels of the debtor, in his hands, to be taken in execution, for or towards the satisfaction of the judgment, so far as what is in his hands will extend, shall be liable to satisfy the same of his own proper goods and estate, and as of his own debt, and a writ of *scire facias* may be taken out of the same court and served upon him as the law directs, to appear and shew cause, if any he have to the contrary thereof; where, upon default of appearance or refusal to disclose upon his oath, (which oath the chief justice of the court is impowered to administer,) what money, goods or chattels of the debtor are in his hands, and to what value, and to expose and subject the same to the execution granted upon the principal judgment, if any money, goods or chattels be in his hands, then judgment shall be entered up against him of his own proper goods and estate, and execution be awarded accordingly.

Money or goods
taken from the
attorney or fac-
tor pursuant to
this act shall be
a discharge
against all de-
mands for the
same by his
principal.

X. *And be it further enacted*, by the authority aforesaid, that the money, goods or chattels of any absent debtor so taken as aforesaid, by process and judgment of law, out of the hands of his attorney, factor, agent or trustee, by any of his creditors, shall fully acquit and forever discharge such attorney, factor, agent or trustee, his executors or administrators, of, from and against all actions and suits, damages, payments and demands whatsoever, to be asked, commenced, had, claimed or brought by his principal, his executors or administrators, of and for the same; and if any attorney, factor, agent or trustee, shall be molested, troubled or sued by his principal for any thing by him done in pursuance of this Act he may plead the general issue, not guilty, and give this Act, in evidence; any law, usage or custom to the contrary notwithstanding.

Any inhabitant
having occa-
sion to take a
voyage and to
return again
with conven-
ient speed, the
plaintiff shall
wait for his re-
turn.

XI. *Provided* always, that in case any person being a known inhabitant of this Province, but being a seafaring man or otherwise having occasion to go a voyage and to return again with all convenient speed to the same, that such person so gone off from this Province, shall not be esteemed or taken as an absent debtor within the intent of this Act, or his money, goods or chattels, liable to attachment by this Act. But in such case the person that is plaintiff, shall wait till the person can return again to this Province, that so he may commence his suit against him in common form,

such person returning within a year and a day, the dangers of the seas or other unavoidable accidents only excepted, and also provided, that in case any person being bound from this Province to settle and inhabit in any other place, shall at any time before two months before his departure give notice to any particular person or persons that he hath any reason to suspect will commence any suit against him, that he is bound off from this Province, that he is ready to answer any suit that he or they shall bring against him, in such case the person or persons refusing to commence his or their suit while the person to defend was present and offered to answer the same, shall not have any benefit by this Act, and attach his money, goods or chattels for any causes of action that did arise before such notice given.

A.D. 1712.

This Act not to extend to any person bound from this Province, who for 2 months before his departure shall give notice of the same.

XII. Whereas several *feme covert*s in this Province that are sole traders, do contract debts in this Province with design to defraud the persons to whom they are indebted by sheltering and defending themselves from any suit brought against them by reason of their coverture, whereby several persons are defrauded of their just dues, for the prevention of which, *Be it enacted*, by the authority aforesaid, that any *feme covert* being a sole trader in this Province, shall be liable to any suit or action to be brought against her for any debt contracted as a sole trader, and all proceedings thereupon to judgment and execution as if such woman was sole and not under coverture, any law or custom to the contrary thereof in any wise notwithstanding.

Any Feme Covert, being a sole trader, liable to be sued as if sole.

XIII. *And be it further enacted*, by the authority aforesaid, that one Act of Assembly of this province, intituled an Act for the better securing the payments of debts due from any person inhabiting and residing beyond sea or elsewhere without the limits of this part of this Province, ratified in open Assembly the twentieth day of May, 1693, and every clause, article, sentence, word, matter or thing contained in the same Act, from henceforth shall be repealed, annulled, revoked, and forever made void, anything in the said Act to the contrary whatsoever in any wise notwithstanding.

A former Act repealed.

*Read three times and ratified in open Assembly,
the 12th day of December, 1712.*

CHARLES CRAVEN,
CHARLES HART,
AR. MIDDLETON,
THOS. BROUGHTON,
RALPH IZARD,
SAM. EVELEIGH.

(This Act is known as the Attachment Act. The 4th section repealed by section 1 of an Act, for allowing Plaintiff or demandant in ejectment &c. passed 29th May 1744. See also the ordinance concerning limitations, 26th March 1784. And the Limitation Act of March 7th, 1789. See references to cases at the end of the volume.)

AN ACT FOR THE BETTER RELIEF OF THE POOR OF THIS PROVINCE. No. 325.

WHEREAS, the necessity, number and continual increase of the poor, not only in Charlestown, but in other parts of this Province, is become very great and burthensome, being occasioned by reason of some defects in the law concerning the settling the poor, and the want of a due provision for their relief and employment; for remedy whereof, and for the

Preamble.

A. D. 1712.

Enacted,

That the vestries of the several parishes be impowered yearly to nominate overseers of the poor.

preventing of the perishing of any of the poor, whether young or old, for want of such supplies as are necessary ;

I. *Be it enacted* by the most noble Prince Henry Duke of Beaufort, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, and by the authority of the same, That the vestries of the several parishes shall have power, and they are hereby authorized and impowered, at any time within two months after the ratification of this Act, to nominate two or more sober, discreet and substantial persons to be overseers of the poor for that parish, who shall continue in the said office until Easter come twelve months, which will be in the year of our Lord one thousand seven hundred and fourteen, and on the first or second meeting of the vestry after Easter yearly, the vestries of the several parishes in this Province shall nominate two or more persons to be overseers of the poor of that parish, who shall continue in the said office unto the Easter following, or until the vestry of the parish can meet and choose other overseers of the poor to succeed them ; and in case of the death or removal out of the parish, of any of the overseers of the poor, the vestry of the parish shall have power to nominate a fit person to supply the place of the person so dead or removed, and every person so nominated and appointed overseer of the poor who shall wilfully refuse to serve in the said office, shall forfeit the sum of ten pounds, to be recovered as hereafter by this Act is directed.

The overseers and churchwardens to have the ordering and relieving of the poor.

II. *And be it further enacted* by the authority aforesaid, That the overseers of the poor so nominated and appointed as aforesaid, together with the churchwardens of the parish, shall have the oversight, ordering and relieving of the poor of the parish, and shall have power to demand and receive all such gifts and legacies, and all such fines and forfeitures, and any other money or things whatsoever, as are given to the use of the poor, and in case of refusal to deliver or pay the same, to commence and prosecute any lawful suit or action for the recovery thereof.

The poor to be relieved out of such money and fines as shall be given to the use of the poor, which if not sufficient, once a year to reimburse the churchwardens by an assessment.

III. *And be it further enacted* by the authority aforesaid, That the poor of each parish shall be relieved out of all such money, goods or things, and out of such fines, mulcts and forfeitures, as shall be given to the use of the poor ; and in case the same shall not be sufficient for the relief of the poor, that once in the year, at any time within two months after Easter, it shall be lawful for the respective vestry of each parish, to order three sober and discreet persons, to assess such sum as shall be necessary to reimburse the churchwardens and overseers, the money they have expended the preceeding year for the relief of the poor, and also twenty pounds over, to remain as a fund in the hands of the churchwardens and overseers of the poor, for the relief of the poor for the ensuing year ; the said assessment to be made equally upon the estates real and personal of all and every the inhabitants, owners and occupiers of lands, tenements and hereditaments, or any personal estate, within the several parishes, which assessment being returned to the said vestry upon oath, who are hereby required to administer an oath accordingly, and being by them approved in open vestry, it shall then be lawful for any justice of the peace of the county, by a warrant under his hand and seal, directed to any of the constables of the several parishes, to levy the sum assessed upon each person, by distress and sale of such person's goods, as shall refuse the same, returning the overplus after reasonable charges deducted, and for want of such sufficient distress, to commit the person to prison till pyament be made ; and the several constables of this Province are

hereby required to execute such warrant, under the penalty of the forfeiture of ten pounds for every neglect.

A. D. 1713.

IV. And for preventing any poor persons coming from the parish where they are inhabitants or settled, to be chargeable to any other parish, and to prevent all disputes concerning what shall be accounted a lawful settling, *Be it enacted* by the authority aforesaid, That any person that hath been quietly and peaceably resident or settled in any parish, as a native, householder, sojourner, apprentice or servant, for the space of three months, shall be esteemed settlers or inhabitants in the said parish; provided, that such abiding and residing is not private, as sometimes in one house and sometimes in another, nor by reason of sickness, lameness or the like, nor being hired for a particular work for a time only, the home or residing of such person being in another parish.

A person that hath been resident in any parish 3 months, to be esteemed an inhabitant.

Provino.

V. *And be it further enacted* by the authority aforesaid, That in case any person shall remove from one parish to another, that it is feared may be chargeable to the parish, that upon complaint made to any of the justices of the peace, by the churchwardens or overseers of the parish, at any time within three months, that such person is like to be chargeable to the parish, any one justice of the peace resident in that parish where such person comes to inhabit, and in case there be no justice of the peace in that parish, then any justice of the peace of that county, may, by warrant, remove and convey him to the parish where he was last legally settled, as a native, householder, sojourner, apprentice or servant for three months at least, unless he give security for the discharge of the parish, to be allowed by the said justice; and if such person shall refuse to go, or shall not remain in the place where he ought to be settled, but shall of his own accord, come back to the place from which he was removed, such person so offending, shall be punished as a vagabond may be punished by any of the laws and statutes of England; and if any churchwarden or overseer of the poor refuse to receive such person so to be removed, and provide for him as an inhabitant, any justice of the peace may bind them to the assizes or sessions, to be indicted for their contempt.

A person removing from one parish to another and it is feared he will be chargeable, may be removed to the parish from whence he came.

VI. And whereas it often happeneth that poor persons that are sick, do remove from other parishes to Charlestown, in order to have the assistance of physicians, and medicines proper for their recovery, and it may be that such persons cannot be sent back to their own parishes without endangering their lives, *Be it therefore enacted* by the authority aforesaid, That such person or persons coming to Charlestown, and being taken care of by the overseers of the parish, that a distinct account shall be kept of such charges, and the overseers of the poor of the parish to whom the person or persons so coming to Charlestown doth belong, shall pay the same; and in case of refusal of the same, in case the sum demanded be under forty shillings, that the same shall be recovered as in the Act for the Trial of small and mean Causes, is directed; and if above forty shillings, shall be sued for by the churchwardens or overseers of Charlestown, by action of debt or information, against the overseers of the poor of such other parish to whom such sick person did belong, and if they recover the same, they shall be allowed their double costs of suit.

Poor sick persons coming to Charlestown for physicians, how provided for.

VII. And for the prevention of any parish being unecessarily charged with the providing for poor persons, *Be it enacted* by the authority aforesaid, That in case any person shall be so poor as to become chargeable to the parish, which person hath a father, or a grandfather, or mother, or grandmother, or child, or grandchild, that they or any of them are of sufficient ability to relieve such poor persons, that in such case it

Poor persons having relations able to relieve them, shall have an allowance from them.

A. D. 1712

shall be lawful for the vestry of the parish, upoh complaint made by the overseers of the poor, to order some one or more, or all of such relations, to allow the poor person so much by the week, as they shall think fitting, and in case of refusal to pay, the same, it shall be lawful for any justice of the peace of the county, by his warrant under his hand and seal, directed to any of the constables, to levy the same by distress and sale of the goods of such person or persons refusing to pay, and for want of sufficient distress may commit the offender to prison till payment be made; and the several constables, or any of them, are required and commanded to execute all such warrants, under the same penalties for their neglect as is before by this Act prescribed for a constable neglecting or refusing to execute the justices warrant for the general levy for the poor.

Poor children
may be bound
apprentice.

VIII. *And be it further enacted* by the authority aforesaid, That in case any poor children shall be chargeable to the parishes, that it shall be lawful for the churchwardens and overseers of the poor, with the consent and approbation of the vestry, to bind such child or children out to be an apprentice, until every male child shall arrive unto the age of twenty-one years, and every female till she arrive unto the age of eighteen years, or be married, or for a shorter time as they shall see convenient.

The church-
wardens and
overseers to
meet monthly.

IX. *And be it further enacted* by the authority aforesaid, That for the better execution of this Act, the churchwardens and the overseers of the poor, of the several parishes, shall meet monthly at the church or some other convenient place, on the Sunday, after divine service is over, there to consider and advise together of matters belonging to their office, and to use their utmost diligence in the execution thereof, on the penalty of twenty shillings for every neglect, without such reasonable cause as shall be approved of by the vestry for an excuse.

A register to be
kept of the
names of the
persons receiv-
ing collections,
to be laid before
the vestry and
parishioners.

X. *And be it further enacted* by the authority aforesaid, That there shall be kept in every parish, at the parish charge, a book or books, wherein the names of persons receiving collections shall be registered, with the time they were first admitted to have relief, and the occasion of their necessity, which book shall be laid before the vestry when required, and yearly, in Easter week, or oftener, the parishioners shall meet and have such books produced before them, and the persons receiving collections, if required by any of the parishioners, shall be called, and the reasons of their taking relief examined, and a new list to be made and entered, of such as they shall think fit to allow to receive collections.

The church-
wardens and
overseers once
a year to ac-
count before
the vestry.

XI. *And be it further enacted* by the authority aforesaid, That the churchwardens and the overseers of the poor, once in a year, and oftener if required, shall account before the vestry; and in case any action or suit shall be brought and commenced by and in the name of the vestry against the churchwardens and overseers of the poor, for any monies mispent by them, the evidence of the parishioners, other than such as receive alms of the parish, where the defendants are inhabitants, shall be taken and admitted.

Masters of ves-
sels bringing
any sick or
maimed seamen
into port, shall
carry them off
when they
depart.

XII. Whereas several sick and lame seamen have been brought in and left here in this province, upon the charge of the publick, *Be it therefore enacted* by the authority aforesaid, That every master of any ship or vessel, that shall bring any sick, lame or maimed seamen into this port, shall maintain and keep them here, and when they depart this port, shall carry them off or give sufficient security to the church-

wardens and overseers of the poor, for the maintenance and charge of the sick as aforesaid; and every master as aforesaid, that shall neglect or refuse the same, or any part thereof, shall forfeit the sum of fifty pounds, for the use of the poor, to be recovered as is hereafter directed by this Act; and every person that shall entertain any such lame or maimed seaman as aforesaid, without the knowledge and consent of the church wardens and overseers of the poor or any two of them, shall keep and maintain him or them so entertained at their own proper costs and charges.

A. D. 1712.

XIII. *Provided*, and it is hereby intended, that if the sick or lame as aforesaid, shall not be in a condition to be carried off, without danger of their lives, of which the churchwardens or overseers of the poor as aforesaid, or any two of them, are judges, then the master of the said vessel, and not otherwise, shall pay or cause to be paid into the hands of the churchwardens or overseers of the poor, towards the maintenance and support of such person as aforesaid, all the wages that shall be due to the said person and no more, any thing herein contained to the contrary notwithstanding. Proviso.

XIV. *And be it further enacted* by the authority aforesaid, That all the fines and forfeitures mentioned in this Act, that do not exceed the sum of forty shillings, shall be recovered, adjudged, levied and distrained by any one justice of the peace in this province, as in the Act for the Trial of small and mean Causes, is directed, and the same being so recovered, shall be paid to the churchwardens and overseers of the poor, of the parish where the person inhabits against whom the forfeiture is recovered, to be disposed of towards the defraying the charges of the poor of the said parish; and all fines and forfeitures mentioned in this Act, exceeding the sum of forty shillings, the two thirds of such fines and forfeitures shall be paid into the hands of the churchwardens or overseers of the poor, of the parish where the person inhabits against whom the forfeiture is recovered, to be disposed of towards the charge of the poor of the said parish, and the other third to him or them that will sue for the same, by action of debt, suit, bill, plaint or information, in any court of record in this province, wherein no essoign, protection, privilege, injunction or wager of law, or stay of prosecution by *non vult ulterius prosecui*, or otherwise, shall be admitted or allowed. The fines and forfeitures in this Act how to be recover'd.

XV. *And be it further enacted* by the authority aforesaid, That if any action, plaint, suit or information, shall be commenced and prosecuted against any person or persons, for what he or they shall do in pursuance or execution of this Act, such person or persons so sued, may plead the general issue not guilty, and upon issue joyned, give this Act and the special matter in evidence, and if the plaintiff or prosecutor shall become nonsuit, or suffer discontinuance, or if a verdict pass against him, the defendant or defendants shall recover his or their treble costs, for which they shall have the like remedy as in any case where costs by law are given to the defendant. Persons sued may plead the general issue.

XVI. *And be it further enacted* by the authority aforesaid, That one Act of Assembly of this Province, entituled, An Act for the Poor, ratified in open Assembly the sixteenth day of March, 1695-6, and one other Act of Assembly entituled, An Additional Act for the Poor, ratified in open Assembly the eighth day of October, 1698, and every clause, article, sentence, word, matter or thing contained in the said Acts, from henceforth Two former Acts repealed.

A. D 1712. shall be repealed, annulled, revoked and for ever made void, any thing in the said Acts to the contrary whatsoever in any wise notwithstanding.

*Read three times, and ratified in open Assembly,
the twelfth day of December, 1712.*

CHARLES CRAVEN,
CHARLES HART,
ARTHUR MIDDLETON,
THOS. BROUGHTON,
RALPH IZARD,
SAM. EVELEIGH

NOTE.—See Act of Dec. 18, 1713; Act of June 23, 1732; Act of May 19, 1758; Act of April 12, 1768.

No. 326. **AN ACT TO MAKE PERPETUAL THE SEVERAL ACTS THEREIN
MENTIONED.**

Preamble.

WHEREAS, many good and wholsom laws were made in this Province as probationary laws, many of which, by a long experience and the many continuations of the same, have been found to be very useful and beneficial laws, and which, by reason of their being of general and constant use, it would be for the benefit and good of this Province, to have the same laws made and enacted to be perpetual;

Enacted,

That the with-
in mentioned
Acts be made
perpetual.

I. *Be it therefore enacted* by the most noble Prince Henry Duke of Beaufort, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south and west part of this Province, and by the authority of the same, That one Act of the General Assembly of this Province, entituled, An Act for the Trial of small and mean Causes, ratified in open Assembly the fifteenth day of October, one thousand six hundred and ninety-two; and one other Act, entituled, An Act inhibiting the Trading with Servants and Slaves, ratified in open Assembly the sixteenth day of March, one thousand six hundred ninety five and six; and one other Act, entituled, An Act to prevent Mariners and Seamen running into Debt, ratified in open Assembly the said sixteenth day of March, one thousand six hundred ninety five and six; and one other Act, entituled, An Act for the Entry of Vessels, ratified in open Assembly the eighth day of October, one thousand six hundred and ninety eight; and one other Act, entituled, An Act for ascertaining Publick Officers Fees, ratified in open Assembly the said eighth day of October, one thousand six hundred and ninety eight; and one other Act, entituled, An Act for ascertaining the Fees relating to the office and duty of a Justice of the Peace, ratified in open Assembly the seventh day of May, one thousand seven hundred and nine; all which Acts shall be in force in this Province for ever, and are hereby made perpetual, any limitation, or other matter or thing whatsoever, contained in the said Acts, or any of them, to the contrary thereof in any wise notwithstanding.

An Act revived
and made
perpetual.

II. *And be it further enacted* by the authority aforesaid, That one Act of Assembly of this Province, entituled, An Act for making sufficient Fences, and keeping the same in repair, ratified in open Assembly the twentieth

day of June, one thousand six hundred and ninety four, be and is hereby revived, made of force and is hereby made perpetual, any limitation, matter or thing contained in the said Act to the contrary thereof in any wise notwithstanding.

A. D. 1712.

*Read three times and ratified in open Assembly,
the 12th day of December, 1712.*

CHARLES CRAVEN,
CHARLES HART,
ARTHUR MIDDLETON,
THOS. BROUGHTON,
RALPH IZARD,
SAMUEL EVELEIGH.

NOTE.—The Acts mentioned are Nos. 88, 135, 164, 165, 111, and the Fee Act of May 7, 1709.

AN ACT FOR SETTLING THE ISLAND CALLED PALAWANEE, UPON THE CUSABOE INDIANS, NOW LIVING IN GRANVILLE COUNTY, AND UPON THEIR POSTERITY FOR EVER.

No. 327.

WHEREAS, the Cusaboe Indians of Granville county, are the native and ancient inhabitants of the sea coasts of this Province, and kindly entertained the first English who arrived in the same, and are useful to the government for watching and discovering enemies, and finding shipwrecked people; and whereas the island called Palawanee, nigh the island of St. Helena, upon which most of the plantations of the said Cusaboes now are, was formerly by inadvertency granted by the right honourable the Lords Proprietors of this Province, to Matthew Smallwood, and by him sold and transferred to James Cockram, whose property and possession it is at present;

Preamble.

I. *Be it enacted* by the most noble Prince Henry Duke of Beaufort, Palatine, and the rest of the right honourable the true and absolute Lords and Proprietors of Carolina, together with the advice and consent of the members of the General Assembly, now met at Charlestown, for the south west part of this Province, That from and after the ratification of this Act, the island of Palawanee, lying nigh the island of St. Helena, in Granville county, containing betwixt four and five hundred acres of land, be it more or less, now in the possession of James Cockram as aforesaid, shall be and is hereby declared to be vested in the aforesaid Cusaboe Indians, and in their heirs for ever.

Enacted,

That the island Palawanee be vested in the Cusaboe Indians for ever.

II. *Be it enacted* by the authority aforesaid, That all sales, alienations, and conveyances of the said island, or any part thereof, made by the said Cusaboe Indians, or any of them, their or any of their descendants, to any person or persons whatsoever, are hereby declared to be null and void, and the said island, and every part thereof, shall notwithstanding such sales, alienations or conveyances, remain to the only proper use and behoof of the said Cusaboe Indians, and every of them, and their and every of their descendants for ever, and upon extinction of the race of the said Cusaboes, to revert to the publick Receiver of this Province, to be sold and disposed of to the best advantage for the use of the publick.

All sales of the said island by the said Indians shall be null and void.

A. D. 1712.

Penalty on any person that shall dispossess or disturb the said Cusaboe Indians.

III. *And be it further enacted* by the authority aforesaid, That if the aforesaid James Cockram, his heirs, or any person descending or claiming from him, or any other person, upon any claim or pretence whatsoever, shall dispossess the said Cusaboe Indians, or any of them, their or any of their descendants, of the island aforesaid, or any part thereof, or shall disturb them or any of them, their or any of their descendants, in the quiet and peaceable possession of the said island, or any part thereof, by conveying thither any horses, sheep, cows, hogs, or any other cattle, or by any other ways or means whatsoever, such person so offending, shall forfeit and pay the sum of three hundred pounds, current money of this Province, to him or them who shall sue for the same, by bill, plaint or information, in any court of record in this Province, wherein no essoign, protection, wager of law or stay of prosecution, shall be allowed or admitted of.

The publick Receiver to pay to James Cockram £60, he delivering up his plat, grant, &c. of the said island.

IV. *And be it further enacted* by the authority aforesaid, That the publick Receiver shall pay, and is hereby required to pay unto the said James Cockram, or to his administrators, or to his or their order, the sum of sixty pounds, current money of this Province, in consideration of all the title and interest which he now hath in the island aforesaid; and the said Cockram shall upon the ratification of this Act, deliver the plat, grant and other writings concerning the said island, into the hands of the publick Receiver, who shall first cause the same to be recorded, and then delivered or sent to the chiefs of the Cusaboe Indians, with a copy of this Act; and if the said James Cockram refuse or neglect to deliver up the said plat and other writings, as aforesaid, he shall forfeit and pay the sum of one hundred pounds, current money of this Province, to be sued for and recovered as is above directed.

*Read three times and ratified in open Assembly,
the twelfth day of December, 1712.*

CHARLES CRAVEN,
CHARLES HART,
ARTHUR MIDDLETON,
THOS. BROUGHTON,
RALPH IZARD,
SAMUEL EVELEIGH.

No. 328. *AN ACT* FOR APPOINTING AN AGENT TO SOLICIT THE AFFAIRS OF THIS PROVINCE IN THE KINGDOM OF GREAT BRITAIN.

Preamble.

TO the end that the pressures which the trade of this Colony now lies under, may be legally removed, by a fair and impartial representation of the same to the Parliament of Great Britain, and to any other persons who have power or inclination to redress the same :

Abel Kethellby appointed agent.

I. *Be it enacted*, by the most noble Prince Henry Duke of Beaufort, Pallatine, and the rest of the true and absolute Lords and Proprietors of Carolina, together with the advice and consent of the members of the General Assembly, now met at Charlestown, for the South-west part of this Province, and it is hereby enacted by the authority of the same, that the Hon. Landgrave Abell Kethellby, Esq. shall be, and is hereby declared, nominated and appointed Public Agent, for soliciting the affairs of this Province, before the Parliament of Great Britain, the Right Honora-

ble the Lords and Proprietors of this Province, or with any other persons in the kingdom of Great Britain, according to the instructions and directions which he shall from time to time receive from the Commissioners hereafter named, or any three of them. A. D. 1712.

II. *It is hereby further enacted*, and declared by the authority aforesaid, that the principal ends and reasons, for appointing this Agency, is, by all due and prudent application, to procure the bounty money now paid, to be continued to the importers of Pitch, Tarr, Turpentine and other Naval stores from this Province to the kingdom of Great Britain, and if possible to procure permission to export Naval stores and Rice from this Colony to Spain, Portugal, and to all places whatsoever in Africa and America, as well continent as Islands, or to as many of the said places as can possibly be procured. Date of the agent.

III. *Be it enacted*, by the authority aforesaid, that the Commissioners hereafter nominated, or any three of them, shall give it as an instruction to the Agent above mentioned, not to solicit for such a free exportation of Rice as is above directed, at the same time that he solicits the affairs relating to the Naval stores, lest the difficulty of procuring the same should be any impediment in obtaining the other, and that he first endeavour to get a law for the Naval stores as is above directed, or as much to the advantage of this Colony in that respect, as can be procured, and then to solicit the other affair relating to Rice. Instructions to the agent.

IV. *Be it further enacted*, by the authority aforesaid, that Charles Hart, Arthur Middleton, and Samuel Eveleigh, Esqrs., Mr. William Gibbons and Henry Wiginton, Esqr. or any three of them, shall be, and they are hereby nominated and appointed Commissioners, to put the powers given them by this Act in execution. Commissioners appointed to execute this Act.

V. *Be it further enacted*, by the authority aforesaid, that the Commissioners aforementioned, or any three of them, shall send instructions to the Agent aforesaid, according to the true intent and meaning of this Act, and to the report of the Committee of both Houses, appointed to consider of this affair, this present session of this General Assembly, and shall continue to correspond with him from time to time, upon that subject. Provided nevertheless, that the foresaid Commissioners shall not be limited to these particulars, expressed in this Act and the report of the Committee aforesaid, but that they may send instructions to the Agent aforesaid, to solicit any other matters, which they may recollect to be evidently necessary for the improvement of the trade navigation, or safety of this Province. To send instructions.

VI. *Be it further enacted*, by the authority aforesaid, that the Public Receiver for the time being, shall pay to the said Agent, or his order upon demand, the sum of one hundred and fifty pounds, current money of this Province, as an encouragement to undertake the Agency above expressed, and the sum of one hundred and fifty pounds, current money of this Province, as soon as an Act of Parliament shall be passed in the kingdom of Great Britain, for a longer continuance of the time, wherein the bounty now paid, shall be given to the importers of Pitch, Tarr, Turpentine, and other Naval stores from this Province. Pay of the agent.

VII. *And it is hereby further enacted*, that the Public Receiver for the time being, shall further pay to the foresaid Agent, or to his order, the sum of five hundred pounds, current money of this Province, as soon as an Act of Parliament shall be passed in the kingdom of Great Britain, permitting a free exportation of Rice from this Province, to Spain, Portugal, or of Rice. When a certain Act of Parliament has been obtained for the free exportation of Rice.

A. D. 1712.

tugal, and all places in Africa and America, both continent and Islands, and a proportional sum for as many of the said places as the exportation of Rice as aforesaid, can be procured for.

*Read three times and ratified in open Assembly,
this twelfth day of December, 1712.*

CHARLES CRAVEN,
CHARLES HART,
ARTHUR MIDDLETON,
THOS. BROUGHTON,
RALPH IZARD,
SAM. EVELEIGH.

No. 329.

AN ACT FOR PRINTING THE LAWS OF THIS PROVINCE.

Preamble.

WHEREAS, nothing more conduceth to the well being, support, tranquility and benefit of any place and people, than the preservation of their Laws, and the knowledge of them. And whereas, the Laws of this Province, are often subject to great danger, and to be wholly lost by fire and other accidents, and it being highly reasonable, the Laws of this Province, by which the people thereof are to be regulated and governed, their lives preserved and their estates secured to them and their posterity, should be made publick and open to the ready view of all persons, that so any one may have the advantage of free recourse to the same, as well the inhabitants, as all other persons in remote parts, who have estates and interests depending on them, and the preservation and publication of the Laws would be both provided for, by a collection of them to be printed in one entire volume. And whereas, Nicholas Trott, Esq. the Chief Justice of this Province, hath made a collection of the Laws of this Province, digested into an exact and easy method, and is now fitting up a double transcript of the same, with marginal notes, references and tables, fitted for the press, and the same having been laid before the General Assembly of this Province, and approved of by the same. And the said General Assembly being desirous to promote so useful a work, and to encourage the said Nicholas Trott for his pains and labor in the said collection, have agreed with the said Nicholas Trott, to allow him the sum of two hundred and fifty pounds for his copy. And whereas, in the schemes of the perpetual and temporary Acts of this Province, formerly laid before the General Assembly, several Laws were marked to be new drawn, and the Assembly having agreed with the said Nicholas Trott, to allow him the sum of fifty pounds current money, and thirty books of the Laws bound, with a liberty for the said Nicholas Trott, to order the printer to print fifteen books of the Laws, for his own private use, he paying the charge of the paper only, the same to be allowed the said Nicholas Trott for his pains and labour, in new drawing the said Acts. To the end therefore, that so useful a work as the printing a collection of the Laws of this Province in one volume, may be perfected with all expedition, for the benefit and advantage of the inhabitants thereof, and all other persons concerned therein:

£250 to be paid
Nicholas Trott
for his manu-
script.

Further com-
pensation to N.
Trott.

The manu-
script to be
transmitted to
New York or

I. *Be it therefore enacted*, by the most noble Prince Henry Duke of Beaufort, Pallatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown, for the South

West part of this Province, and by the authority of the same, that the body of the Laws of this Province, being collected by the said Nicholas Trott, shall be forthwith transmitted, either to London, New Yorke, or to Boston in New England, there to have four hundred books of the Laws printed and bound, at the charge of the publick, and to be paid for out of the publick Treasury of this Province, and to be transmitted hither at the risque of the publick. A. D. 1712.
The printed book to be authority in the Courts.

II. *And be it further enacted*, by the authority aforesaid, that the said book of the Laws, when printed as aforesaid, be and shall be taken, deemed, and held a good lawful Statute Book of this Province, in all Courts, and upon all occasions whatsoever, as the Statute Book of the Laws of Great Britain, is deemed, held and taken in that kingdom. And that any impression of the said Laws, which shall, or may be made by any other person or persons whatsoever, and imported to this Province, shall be of no manner of force and validity in any Courts, or on any occasion or occasions, within the Province aforesaid.

III. *And be it further enacted*, by the authority aforesaid, that the said Nicholas Trott, having fitted up the book of the copy of the Laws of this Province ready for the press, (including the Laws of this sessions of the General Assembly,) and the said copy being first reviewed by Arthur Middleton, Charles Hart, Henry Wiginton and George Evans, Esqrs. or any three of them, who are hereby appointed and required to review the same, and delivering or sending the same to the printer at London, New York, or Boston in New England aforesaid, that then the Public Receiver shall, at the end of six months next following, pay unto the said Nicholas Trott, or his order, the full sum of two hundred and fifty pounds, current money of this Province, for the said copy, and also the sum of fifty pounds like current money, for his trouble in new drawing of several Acts, and upon the printed books of the Laws being imported into this Province, the Public Receiver shall cause to be delivered to the said Nicholas Trott, or his order, thirty of the said books, well bound and no way damaged. The Public Receiver to pay N. Trott £250.
Also £50 for new drawing Acts.

IV. *And be it further enacted*, by the authority aforesaid, that whatever the said Nicholas Trott shall agree to allow a clerk, for copying the Acts of Assembly of this Province, and a duplicate of the same, shall be paid for out of the publick Treasury of this Province, and the Public Receiver for the time being, is hereby required to pay the same accordingly. Excepting those Acts already allowed for, the copying of them which were numbered in the two schemes of the perpetual and temporary Acts, laid by the said Nicholas Trott before the Assembly, when he first proposed to them the printing the Acts. A copying clerk allowed to N. Trott.

*Read three times and ratified in open Assembly,
the 12th day of December, A. D. 1712.*

CHARLES CRAVEN,
CHARLES HART,
ARTHUR MIDDLETON,
THOS. BROUGHTON,
RALPH IZARD,
SAMUEL EVELEIGH.

A. D. 1712.

- No. 330.** *AN ACT* to ascertain a Fund for cancelling the sum of Seven Thousand Five Hundred Sixty and Six Pounds Four Shillings and Eight Pence Half-penny, in Bills of credit, (that is to say) the sum of £3566 4s. 8d. half-penny, the remaining bills uncanceled of the £4000 made by Act of Assembly for the carrying on the Northern expedition against the Tuscororaes, and the sum of £4000 more, being so much directed to be paid to the Publick Receiver, by an Act, entitled, an Act for the making the sum of £52000 &c. for which there has not been as yet any Fund appointed, as also to nominate another Commissioner of the Fortifications and Magazine in Charlestown, and for the more speedy recovery of small duties.

(Ratified December 12, 1712. Repealed by Act of June 30, 1716, in connection with the Order of Council, of July 22, 1718. The original Act not now to be found.)

- No. 331.** *AN ACT* for reviving and continuing the several Acts therein mentioned, which are expired or near expiring.

(Ratified December 12, 1712. The original much worn and defaced. The Acts continued for two years are—the Act concerning Runaways, March 1, 1700–1; the Act concerning Beasts of prey, May 8, 1703; the Act concerning unmarked Cattle, September 17, 1703; the Act concerning Leather, September 17, 1703; the Act concerning Pilotage, July 12, 1707; the Act concerning a Publick Store of Powder, July 12, 1707; the Act concerning a General Post Office, July 12, 1707; the Act concerning the Militia, July 19, 1707; the Act concerning the Enlistment of Slaves, April 24, 1708; the Act concerning a Market in Charlestown, April 8, 1710; the Act concerning a Guard at Johnson's Fort, May 7, 1709, to continue for one year, or until peace be proclaimed.)

- No. 332.** *AN ACT* for raising the Sum of One Hundred and Nineteen Pounds on those persons who by an Act of Assembly, entitled, an Act for making and mending Highways, &c. ratified in open Assembly the eighth day of October, one thousand six hundred and ninety eight, are specially appointed to make a Highway or common Road upon Thomas Island, and the North-west side of Wando River,* and also on those persons who by one other Act of Assembly, entitled, an additional Act to an Act for making and mending of Highways,† ratified in open Assembly the fifth day of November, Anno Dom. one thousand seven hundred and nine, are appointed to keep in good and sufficient repair the Bridge over the Creek on the North-west side of Thomas Island, commonly called the Wading Place, in order to pay and reimburse Col. Robert Daniel, jr. who built and erected the said Bridge.

(Ratified December 12, 1712. See last volume.)

*Act No. 160, Sec. 9. †Act No. 287, Sec. 2.

A.D. 1713.

A Declaratory ACT CONCERNING THE SEVERAL ACTS OF ASSEMBLY OF THIS PROVINCE THAT ARE REPEALED, AND ALSO CONCERNING THE ADJOURNMENTS OF THE COMMONS HOUSE OF ASSEMBLY. No. 333.

Sec. 1. Enacteth, That no Act of Assembly that now standeth, or hereafter shall stand repealed by any other Act, shall be revived by the repealing such repealing Act, except revived by the express words of some other Act, and enacted to be of force. This first clause is repealed by Section 26 of the Quit Rent Act of 20th August, 1731.

II. And whereas it hath been found of dangerous consequence to the publick affairs of this Province, that a sufficient number of members not meeting and qualifying to make a House, have from thence concluded themselves to be dissolved, contrary to the known usage and custom of Parliament, *Be it therefore enacted*, by the authority aforesaid, That from and after the ratification of this Act, no Assembly convened by Writ under the hands of the Governour and Council, though they meet not at the time prescribed in the form of the Writ, shall be deemed to be dissolved, but shall continue to be an Assembly till dissolved by the power that calls them, according to the ancient and legal Constitutions of Parliament, any thing in this Act, or any other to the contrary hereof in any wise notwithstanding. No Assembly to be dissolved but by the same power that called them.

III. And whereas it may often happen, that at the day appointed for the first meeting of the General Assembly, after the election, that a sufficient number may not meet in the Commons House, to choose a Speaker to adjourn the House, *Be it enacted*, That in such case, though a sufficient number of the members of the Commons House of Assembly may not meet to choose a Speaker, yet if any number shall meet, provided they be not less than seven, or the major part of them agreeing, shall choose a Chairman, and upon vote of a majority of the members so met, the said Chairman shall adjourn the said members from day to day, until a sufficient number do come to the House, to choose a Speaker. On the first meeting of the Assembly if there be not a sufficient number to choose a Speaker, then seven may adjourn from day to day.

IV. And whereas there hath been always ten members with the Speaker, to make an adjournment of the Commons House of Assembly, but forasmuch as by reason of the great distance of the habitations of several of the members from Charlestown, through bad weather and other accidents, it may often happen, that such a number with the Speaker, may not meet, to make an adjournment, *Be it therefore enacted*, by the authority aforesaid, That any six of the members of the Commons House of Assembly, together with the Speaker, and the major part of them so agreeing, may adjourn the Commons House of Assembly from day to day, until there be a sufficient number to proceed on business, any law or custom to the contrary hereof in any wise notwithstanding. Six members with the Speaker may adjourn the Assembly.

*Read three times and ratified in open Assembly,
December 18, 1713.*

CHARLES CRAVEN,
CHARLES HART,
ARTHUR MIDDLETON,
RALPH IZARD,
RICHARD BERESFORD,
SAMUEL EVELEIGH.

A. D. 1712

No. 334. *AN Additional ACT TO AN ACT ENTITLED, AN ACT FOR THE BETTER RELIEF OF THE POOR OF THIS PROVINCE.*

Preamble. WHEREAS, by one Act of Assembly of this Province, duly ratified in open Assembly, the 12th day of December, 1712, entitled, an Act for the better relief of the Poor of this Province, amongst other things it was enacted, That once in a year, at any time within two months after Easter, it shall be lawful for the respective Vestry of each Parish, to order three sober and discreet persons to assess such sum as shall be necessary to reimburse the Church Wardens and Overseers the money they have expended the preceding year, for the relief of the Poor, and also twenty pounds over, to remain as a Fund in the hands of the Church Wardens and Overseers of the Poor, for the relief of the Poor for the ensuing year, as by the said Act of Assembly, relation being thereunto had, will fully appear. And whereas, by reason of the great number of poor that are commonly in Charlestown Parish, the said sum of twenty pounds is not a sufficient Fund for the relief of the poor for the ensuing year, but that a larger sum is necessary for the same:

Enacted. I. *Be it therefore enacted*, by the most noble Prince Henry, Duke of Beaufort, Lord Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown, for the South-west part of this Province, and by the authority of the same, That it shall be lawful for the Vestry of the Parish of St. Philip's, Charlestown, once in the year, at any time within two months after Easter, to order such sum to be assessed, according to the directions of the above recited Act, as shall be necessary to reimburse the Church Wardens and Overseers the money they have expended the preceding year for the relief of the poor, and also any farther sum, not exceeding seventy pounds over, to remain as a Fund, in the hands of the Church Wardens and Overseers of the poor, for the relief of the poor, for the ensuing year, any thing in the above recited Act to the contrary thereof, in any wise notwithstanding.

That the Vestry of Charlestown be reimbursed once a year by an assessment, and £70 over.

Penalty on persons refusing to make such assessment. II. And whereas, by the above recited Act for the relief of the poor, it is enacted, That it shall be lawful for the Vestry of each Parish, to order three sober and discreet persons to make the above mentioned assessment, but no penalty by the said Act, is laid upon the persons that refuse or neglect to obey such orders of the Vestry, *Be it therefore enacted* by the authority aforesaid, That any person so ordered by the Vestry, to make such assessment, as aforesaid, who shall refuse or neglect to give obedience to such orders, and to perform the same, shall forfeit the sum of ten pounds, current money of this Province, to be recovered and disposed as the fines and forfeitures in the said recited Act, for the relief of the poor, by the said Act are ordered to be recovered and disposed.

An assessment to be made in Charlestown within one month after the ratification of this Act. III. And whereas, the Overseers of the poor of the said Parish of St. Philips Charlestown, have not any money in their hands, but have expended out of their own monies for the relief of the poor, and by the said recited Act, no new assessment can be made till after next Easter, *Be it therefore enacted*, by the authority aforesaid, That it shall be lawful for the Vestry of the said Parish of St. Philips Charlestown, at any time within one month after the ratification of this Act, to choose three sober and discreet persons to assess such sums as shall be thought necessary, not only to reimburse the Church Wardens and Overseers of the poor of the

said Parish, for the money they have already expended for the relief of the poor, but also so much as they shall think will be necessary for the relief of the poor, until Easter next ensuing the ratification of this Act, any thing in the above recited Act for the relief of the poor. to the contrary hereof in any wise notwithstanding. A. D. 1713.

*Read three times and ratified in open Assembly,
this 18th day of December, A. D. 1713.*

CHARLES CRAVEN,
CHARLES HART,
ARTHUR MIDDLETON,
RALPH IZARD,
RICHARD BERESFORD,
SAMUEL EVELEIGH.

AN ADDITIONAL ACT to an Act entitled An Act to prevent and suppress Fire in Charlestown. No. 335.

(Ratified Dec. 18, 1713. See last volume.)

AN ADDITIONAL ACT to an Act, entitled, An Act for building and erecting a Bridge and Causways over the River at the landing of Mr. William Stanyarne, and one other Bridge or Causway from the landing of Mr. Thomas Seabrook to the land of Madam Elizabeth Blake, over Wadmalaw River. No. 336.

(Ratified December 18, 1713. See last volume.)

AN ACT FOR APPOINTING TWO SCOUT CANOES, AND PROVIDING NECESSARIES FOR THE SAME. No. 337.

(The original of this Act not now to be found. The following is copied from Trott's Laws, p. 285.)

WHEREAS, nothing can contribute more to the taking up runaways, and giving intelligence to vessels who happen to fall to the southward, than scout canoes, appointed to cruize on the sea coast between Stono River and St. Augustine; for the supplying whereof for the future, Preamble.

I. *Be it therefore enacted*, by the most noble Prince Henry Duke of Beaufort, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown, That Mr. Henry Quintyne be and is hereby impowered to purchase a new, or repair the old canoe, which canoe, well fitted with sails and other necessaries, shall cruize between Port Royal and St. Augustine, and shall be manned with two white men and three Indians, and the publick receiver is hereby impowered to pay any sum or sums of money which the said Mr. Henry Quintyne shall draw on the publick receiver for the use aforesaid, not exceeding the sum of fifteen pounds, for the buying the new or repairing Enacted,

That a canoe be fitted out to cruize between Port Royal and St. Augustine, to be manned by 2 white men and 3 Indians.

A. D. 1713.

the old canoe, with necessaries for the first year, and a sum not exceeding two pounds for repairing the same for the future.

The white men
to have each
28 l. per annum.

II. *And be it further enacted* by the authority aforesaid, That the white men aforesaid, shall be allowed each, the sum of twenty-eight pounds per annum, and the publick receiver is hereby required and impowered to pay the same to them or their assigns, upon the producing a note under the hand of the aforementioned person appointed to take care of the scout.

And 15 l. per
annum to be
paid as a salary
for 3 Indians.

III. *And be it further enacted* by the authority aforesaid, That a sum not exceeding fifteen pounds per annum, shall be paid out of the treasury to the person appointed to take care of the scout canoes, as a salary for the three Indians employed in the said canoe, and the publick receiver is hereby required to pay the same yearly, which annual payment is to commence after the ratification of this Act. And the powder receiver is hereby required to deliver annually to the forementioned person, for the use of the Port Royal scout, twenty-five pounds of powder, and seventy-five pounds of bullets, to commence after the ratification of this Act, which said person shall render a just account to the publick, at the end of every year.

Another canoe
to cruise be-
tween Stono
and Port Royal.

IV. *Whereas*, it is necessary that another scout canoe be appointed to cruise between Port Royal river and Stono river, *It is therefore enacted* by the authority aforesaid, That Colonel John Fenwicke is hereby impowered to purchase another canoe, and hire two white men and two Indians, to cruise between Stono river and Port Royal river, and the publick receiver is hereby impowered to pay the like proportionable sums which he is impowered to pay for the use of the Port Royal scout, and the powder receiver the like proportionable quantities of powder and bullets.

Penalty for
neglect of duty.

V. *And be it further enacted* by the authority aforesaid, That the persons employed in the scout canoes, shall observe such instructions as they shall receive from time to time from the managers of the said canoes, pursuant to such instructions as they shall have from the Governour for the time being, and for the neglect of which duty they shall be liable to such diminutions of their wages, as the said managers, with the consent and advice of any two freeholders (whereof one to be a justice of the peace) shall think a proper punishment for the offence.

Governor to fill
vacancies.

VI. *And be it further enacted* by the authority aforesaid, That if the persons aforementioned shall dye, depart this Province, or refuse to act in taking care of his or their charge, as they are hereby impowered, that then the Governour for the time being, shall have power, and is hereby impowered and requested to nominate another in his or their stead, who shall have all the power given to the persons aforementioned.

Penalty on any
Indian running
away from the
canoes.

VII. *And be it further enacted* by the authority aforesaid, That if any Indians who are appointed by their chiefs to serve in the said canoes, shall run away before any relieve them, or commit any other fault contrary to their duty which justly deserves punishment, the employer shall have power, with the consent of the chief Indian of the town, to order such moderate punishment to be inflicted on such offenders, as in their judgment shall seem meet.

40s. for taking
up runaway
slaves.

VIII. And whereas the late Acts relating to Look-outs are expired, and there is no sufficient encouragement given by any other law of this Province, for taking up and securing slaves, endeavouring to depart this Province, *Be it therefore enacted* by the authority aforesaid, That any person whatsoever, who shall take up any slave or slaves, in boat, canoe or any other vessel, on the sea-coast, or upon the shore within a mile of the same, or in any river within two miles of the same, without a lawful ticket, and shall bring the said runaway or runaways (provided they be not under

twelve years of age) to his or their proper owner or overseer, shall receive for reward forty shillings for each slave and six pence per mile, not exceeding twenty shillings in the whole for mileage; but in case the persons taking up any such slave or slaves whatsoever, know not the owner or overseer, or that the owner or overseer shall refuse to pay the said sum or sums, or mileage to them, that then and in either case, they shall carry such slave or slaves to the Marshal's house in Charlestown, on the forfeiture of twenty shillings, to be paid to the owner or overseer for every day they shall keep such slave or slaves exceeding four days, without lawful excuse, and the said Marshal is hereby required to pay such person or persons as in this Act is directed, and give notice by posting the same in Charlestown, and shall keep such slave or slaves in custody, and detain them till their owner or overseer shall pay him, together with one royal per day, for each slave's being at his house.

A. D. 1713.

If the owners of slaves are not known, they are to be delivered to the Marshal, in Charleston.

*Read three times, and ratified in open Assembly,
the 18th day of December, Anno Dom. 1713.*

CHARLES CRAVEN,
CHARLES HART,
ARTHUR MIDDLETON,
RICHARD BERESFORD,
RALPH IZARD,
SAMUEL EVELEIGH.

AN ACT to prevent Wines the growth of the Western Islands to be imported into this Province as Wines of the growth of Madera; and for lessening the duty of light Deer Skins, not weighing sixteen ounces. No. 338.

(Ratified December 18, 1713. The original not now to be found.)

AN ACT TO ENCOURAGE STRANGERS TO COME TO THIS PORT BY MAKING SULLIVANES ISLAND MORE REMARKABLE, BY BUILDING A NEW LOOK-OUT AND BUOYING THE CHANNELS. No. 339.

WHEREAS, the Look out formerly built on Sullivan's Island, at the great charge and expence of the publick, is overthrown and carried away by the late hurricane; and whereas Colonel William Rhett hath made an offer and proposed to this General Assembly, that provided he be empowered to demand and receive from the master of every ship or vessel that shall come into this harbour, for every tunn such vessel shall measure, the sum of two pence current money of this Province, that then, at his own sole charge and labour, he will raise and erect a new Look-out on the Island aforesaid, in the room of the former, with such timber and materials, and in such figure, manner and form, as shall effectually answer the main end and design of a Look-out; and that he will also from time to time, at his own like charge and labour, support, maintain, renew and keep in constant and good repair, the Look-out so to be raised by him as aforesaid; and will also fix so many buoys, with good anchors and

Preamble.

A. D. 1713.

chains or other moorings, in the channel of Ashley river and such other places as are most convenient to make the entrance of any ship or vessel into the harbour and channel easy and visible to strangers; and will also, from time to time to time, as aforesaid, at his own like charge and labour, support, maintain, renew, and keep in constant and good repair the several buoys so offered to be fixed by him as aforesaid: And whereas the aforesaid proposals are of great advantage, as well to the publick, by preventing the present charge and expence of building a new Look-out and keeping the same in constant repair and good order and fixing the buoys as aforesaid, as also to the master of every ship or vessel, by reducing two thirds of the charges before appointed to be paid towards building and repairing the Look-out and buoys, by every ship or vessel bound into this harbour:

A Look-out to
be erected.

I. *Be it therefore enacted* by the most noble Prince Henry Duke of Beaufort, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, and by the authority of the same, That it shall and may be lawful for Colonel William Rhett, and he is hereby permitted and impowered, at his sole charge and labour, to raise and erect or cause to be raised and erected, on such part of Sullivan's Island as he shall think most fit and convenient, a Look-out, not less in height than sixty feet, and composed and made of such stuff and materials, and in such figure, manner and form, as the said William Rhett shall think will most effectually answer the true intent and design of such a publick Look-out, and the same Look-out so raised and erected as aforesaid, shall at the same cost, and from time to time, and as often as there is occasion, renew, amend, and keep in good order and repair.

Buoys and
anchors to be
fixed.

II. And whereas the entrance into the harbour and channel of Ashley river is so difficult to find that it often happens that ships and vessels belonging to strangers are often obliged to stand out again to sea, when it happens that the pilots, through bad weather, cannot go out to them, to the great hazard and disappointment of such ships or vessels, when if the channel was buoyed there would be less danger in standing into the harbour than standing out to sea again; *Be it therefore enacted* by the authority aforesaid, That it shall and may be lawful for Colonel William Rhett aforesaid, and he is hereby permitted and impowered, at his sole cost and labour aforesaid, to fix or cause to be fixed, so many buoys, with good anchors and chains or other moorings, in the channel of Ashley river and such other places thereabouts, in such manner and form as he shall think most convenient, to make the entrance of any ship or vessel into the harbour and channels easy and visible to strangers; and that there be not less than two buoys fixed in the north channel and three in the south channel; and shall from time to time, and as often as need requires, at his own like charge and labour, support, maintain, renew, and keep in constant and good repair, the several buoys so fixed by him as aforesaid.

Two pence per
tunn payable
on vessels, for
the Look-out
and Buoys.

III. And whereas it is highly reasonable, and the practice of other sea-ports and maritime places, that the persons who reap the benefit of such Look-outs and other sea-marks and buoys, should pay some acknowledgement to defray not only the first charges thereof, but also the keeping the same in order and good repair; *Be it therefore enacted* by the authority aforesaid, That from and after the raising the said Look-out and buoying the channel, every ship or vessel bound into this harbour, shall for every

tunn such vessel shall measure, pay to Colonel William Rhett the sum of two pence current money of this Province, who is hereby permitted and impowered to demand and receive the same; which sum of two pence per tunn is allowed him towards defraying the charges of raising, erecting and keeping in repair the said Look-out and fixing and keeping in good order the buoys aforesaid. A. D. 1713.

IV. *And be it further enacted* by the authority aforesaid, That the wreck of the Look-out which was thrown down and carried away by the late hurricane, be and it is hereby given to the aforesaid William Rhett, towards raising a new Look-out, who is hereby impowered and authorized to take the same or any part thereof, wherever it may be found, and apply it to the purpose aforesaid. The wreck of the old Look-out given to W. Rhett.

V. *And be it further enacted* by the authority aforesaid, That one Act of Assembly, entitled an Act to encourage strangers to come to this port, by making Sullivane's Island more remarkable by building a Look-out and repairing the old house and buoing the channel, ratified in open assembly the first day of March, 1710, and every clause, article, sentence, word, matter or thing contained in the same act, from henceforth shall be repealed, annulled, revoked, and for ever made void, any thing in the said act to the contrary whatsoever in any wise notwithstanding. Act of March 1, 1710, repealed.

VI. *And be it further enacted*, That this Act and every thing herein contained, shall remain and be in force for the term of fifteen years after the ratification of this act, and from thence to the end of the next sessions of the General Assembly, and no longer. This Act to continue in force 15 years.

*Read three times and ratified in open Assembly, this
18th day of December, Anno Dom. 1713.*

CHARLES CRAVEN,
CHARLES HART,
ARTHUR MIDDLETON,
RALPH IZARD,
RICHARD BERESFORD,
SAMUEL EVELEIGH.

Expired.

**AN ACT FOR THE MORE SPEEDY COMMENCEMENT AND PROSECUTION OF
SUITS OF LAW IN THE COURT OF COMMON PLEAS IN THIS PROVINCE.** No. 340.
(Being Temporary Act No. 12)

WHEREAS, hitherto the proceedings in the Court of Common Pleas in this Province have been founded on a writ issuing out of the said court to the Marshal directed, commanding him to attach the body of the defendant, in order to compel him to appear and answer the complaint of the plaintiff at the next Court of Common Pleas succeeding the date of the said writ; but forasmuch as it hath been of late observed and experienced that many persons contracting considerable debts, and being unwilling to pay the same (though otherwise sufficiently capable) have advantaged themselves by keeping out of the way of the Marshal, and sheltering themselves in remote and obscure parts of this Province, to the extraordinary

Preamble.

and after the ratification hereof, and from thence to the end of the next sessions of the General Assembly, and no longer. A. D. 1713.

*Read three times and ratified in open Assembly,
the 18th day of December, 1713.*

CHARLES CRAVEN,
CHARLES HART,
AR. MIDDLETON,
RALPH IZARD,
RICHARD BERESFORD.
SAM. EVELEIGH.

Continued for two years by Act of June 30, 1716. Repealed by Act for the amendment of the Law, December 17, 1730.

AN ACT for the keeping and maintaining of a Watch and good-order No. 341.
in Charlestown.

(Ratified December 18, 1713. *See last volume.*)

(The two following Acts of this Session (December 1713) are temporary Acts so called, (T. A.) and marked as No. 14 and No. 15.)

AN ACT TO SETTLE A GUARD IN JOHNSON'S FORT ON WIND-MILL T.A. No. 14.
POINT.

WHEREAS, the Act for settling a Guard on Johnson's Fort, on Wind-mill Point, ratified in open Assembly the seventh day of May, 1709, Preamble. and afterwards revived by a reviving Act, ratified in open Assembly the twelfth day of December, 1712, and which was thereby to continue and be of force for the term of one year, and from thence to the end of the first Session of the next General Assembly and no longer, is near expiring.— And forasmuch as the Fort built on Wind-mill point aforesaid, cannot be of any use or service to the safety of this Province, without a sufficient guard be kept therein.

I. *Be it therefore enacted*, by the most noble Prince Henry Duke of Beaufort, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the South-west part of this Province, and by the authority of the same, That the Guard in the said Fort shall consist of one Captain, one Lieutenant and four men; that the Captain and Lieutenant be appointed and receive their Commissions from the Governour for the time being, and that the four men be listed by the Captain, and that they be under military discipline, and turned out and cashiered at the pleasure of the Governour of this Province, for the time being.

II. *And be it further enacted*, by the authority aforesaid, that within ten days after the ratification of this Act, there shall be a watch kept every night, within the aforesaid Fort at Wind-mill point, consisting of four men, and that the Captain or Lieutenant, shall give due attendance every night in the year, and the said Captain and Lieutenant shall, from time to A nightly watch of four men.

A. D. 1713.

Penalty for
neglect of duty.

time observe, perform and keep all such orders and directions, for the managing and keeping of the said Guard, as they shall from time to time receive from the Governour of this Province for the time being, under the penalty (for every neglect or offence committed, and being thereof convicted before the Governour for the time being,) of forfeiting the sum of five pounds, to be abated out of their pay or salary hereafter mentioned; and the said four men shall from time to time observe, perform and keep all such orders and directions for the better keeping the said Guard, as they shall from time to time receive from their Captain or Lieutenant, upon the penalty, for every neglect thereof or offence committed, and being thereof convicted before their said Captain or Lieutenant, of suffering such corporal punishment as the Captain or Lieutenant for such fault, by special orders or instructions from the Governour for the time being, shall inflict upon or order to be inflicted upon him or them, not extending to life or limb; the said corporal punishments to be such as are commonly used as military punishments.

To be com-
pletely equiped

III. *And be it further enacted* by the authority aforesaid, That all and every Soldier or Watchman, appointed or listed under the Captain or Lieutenant, to keep guard in the said Fort, shall be completely armed and fixed with ammunition, as any soldier or inhabitant is ordered and directed by the militia Act, or the Act for appointing Look-outs, and shall dwell and make their residence in the said Fort, and shall not absent themselves in the night time, and be at all times ready to receive their orders from the said Captain or Lieutenant.

Penalty for
being drunk.

IV. *And be it further enacted*, by the authority aforesaid, That if any soldier or centry, that shall watch in the said Fort, after he or they are put upon duty, shall be drunk, or make themselves incapable to perform their trust, or shall sleep upon the watch, he or they so offending and being thereof convicted before their Captain or Lieutenant, shall suffer such military corporal punishment (life or limb excepted) as the commander of the watch shall think fit, by order and instructions of the Governour for the time being.

Pay of the
Guard.

V. And the better to encourage the Captain and Lieutenant and the four Watchmen, to be diligent and faithful in their several duties and stations, *Be it enacted*, by the authority aforesaid, That the Captain be paid and allowed to him, the sum of fifty pounds per annum, current money of this Province, and that the Lieutenant be paid thirty five pounds per annum, like current money, and that each listed Soldier or Watchman be paid twenty-five pounds per annum, like current money, to be paid quarterly by the Receiver for the time being, out of the Public Treasury, who is hereby required and commanded to reserve and keep always in his hands, the sum of ninety-two pounds ten shillings, to be ready from time to time to pay off the said watch.

Rendezvous
appointed.

VI. *And be it further enacted*, by the authority aforesaid, That the said Fort on Wind-mill point, is hereby appointed to be the rendezvous of the Company on James' Island, in case of an alarm, and the inhabitants of the said Island are hereby commanded to appear in the said Fort, under their respective commanders, till further or other orders from the Governour or commander-in-chief for the time being.

Master of ves-
sels to pay 15
pence for
permit to sail.

VII. And whereas, it is thought convenient for the better encouragement and adding to the yearly salary of the Captain of Johnson's Fort, on Wind-mill point, that the sum of one shilling and three pence be paid the Captain of the said Fort from the commander of every vessel that shall take clearance and go from the port or harbor of Charlestown; *Be it therefore enacted*, by the authority aforesaid, That every master of every

vessel that shall come into this port or harbor of Charlestown, aforesaid, upon his going out and departing from the same, shall, before he so depart or go away, pay or cause to be paid unto the said commander, the sum of one shilling and three pence, for his permit to sail.

A. D. 1714.

VIII. *And be it further enacted*, by the authority aforesaid, That this Act and every thing therein contained, shall continue in force two years, and from thence to the end of the sessions of the next General Assembly, and no longer.

*Read three times and ratified in open Assembly,
the 18th day of December, A. D. 1713.*

CHARLES CRAVEN,
CHARLES HART,
ARTHUR MIDDLETON,
RALPH IZARD,
RICH. BERESFORD,
SAMUEL EVELEIGH.

NOTE.—Continued by other Acts, and for two years by the reviving Act of December 17, 1720

**AN ACT FOR AVOIDING DECEITS IN SELLING OF BEEF AND PORK, T. A. No. 15.
PITCH AND TARR, ROSIN AND TURPENTINE, BY APPOINTING PACKERS,
IN SEVERAL PARTS OF THIS PROVINCE.**

WHEREAS, there have been several complaints, that there have been great deceits in selling and buying of Beef, Pork, Pitch and Tarr, Rosin and Turpentine, for want of sworn Packers, in several parts of this Province. In order that the above said commodities so bought and sold, may be good and merchantable, Preamble.

I. *Be it enacted*, by his Excellency the Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, and by the advice and consent of the members of the General Assembly, now met at Charles-town, for the South-west part of this Province, and by the authority of the same, That there be appointed two Packers for Charlestown, two Packers for Cooper River, two Packers for Wandoe River, two Packers for Ashly River, one Packer for Goose Creek, one Packer for Santee, two Packers for Stonoe and Wadmalaw Rivers, one Packer for New London, one Packer for Edisto Island, one Packer for Ashepoe River, one Packer for Cumbahee River, two Packers for Granville county and one Packer for Winyaw; the said several Packers to be nominated, approved and sworn by any Justice of the Peace (living within the precincts of every respective Packer so to be nominated, approved and sworn) for the faithful discharge of the said office of a Packer, as also, before such Packer shall act as such (though approved and sworn before a justice of the Peace) he shall enter into bond to the Public Receiver for the time being, in the penal sum of twenty-five pounds, conditioned that he shall faithfully and justly discharge the trust and powers by this Act reposed in him as a Packer.

II. *Be it further enacted*, by the authority aforesaid, That all Beef, Pork, Pitch and Tarr, Rosin and Turpentine, that is made and produced in this Province, in order to be shipt off, shall be viewed and searched forthwith, by any of the above said Packers when required, (if not then

A. D. 1714. otherways engaged in packing,) and if the said commodities be found good and merchantable by the said Packer, he the said Packer shall then pack the same, and set the two first letters of his christian and sir-name, with a brand iron, on each bung staff, and receive from the employer, for every barrel of Beef and Pork so packed, one royal, and for every barrel of Tarr, one half royal, and for every barrel of Pitch, one penny.

Contents of the barrels. III. *And be it further enacted*, by the authority aforesaid, That every barrel of Beef and Pork, shall contain twenty-eight gallons, and every barrel of Tarr shall contain thirty-two gallons, and every barrel of Pitch, Rosin and Turpentine, to weigh three hundred and twenty pounds, including the tare of the said barrel.

Meat to be killed 12 days before it is packed. IV. *And be it further enacted*, by the authority aforesaid, That no Packer shall pack any Meat, unless it hath been killed twelve days, and the said Meat not cut in less than six pound pieces, nor larger than sixteen pound pieces.

In case of dispute, to apply to the next Justice. V. *And be it further enacted*, by the authority aforesaid, That if any person shall have reason to, believe that any of the particular Packers abovementioned, shall refuse to put his packer's mark upon any barrel or half barrel of Beef or Pork, or any barrel of Pitch or Tarr, that is good and merchantable, and every way qualified according to the intent of this Act, then such persons shall apply themselves to the next Justice of Peace, which Justice shall order any one or two of the abovementioned Packers to view the said Beef, Pork, Pitch or Tarr, and if the said Packer or Packers so ordered by the said Justice shall judge the same merchantable before the said Justice, then and not otherways, the said Packer so refusing shall put his mark on the same.

Counterfeiting Packer's mark. VI. *And be it further enacted*, by the authority aforesaid, That no person whatsoever do presume to counterfeit the said Packer's mark upon any barrel or half barrel or other cask whatsoever, upon pain of the forfeiture of fifty pounds for every such offence.

Barrels exposed to sale, to be of the gage aforesaid. VII. *And be it further enacted*, by the authority aforesaid, That from and after the ratification of this Act, no Cooper or other person, shall expose to sale any empty barrels or half barrels, for the putting in of Beef, Pork or Tarr, but in such barrels as shall contain the full gage before mentioned by this Act, nor any barrels for Pitch, Rosin or Turpentine, that shall contain less than thirty-two gallons, and all barrels or half barrels that shall be exposed to sale, shall be made of good seasoned wood, and the said Cooper or other person before he or they do expose to sale any such barrel as aforesaid, shall set his or their proper burnt mark upon every such barrel or half barrel, which mark he or they shall cause to be first recorded in the Secretary's office of this part of this Province, upon pain that every such Cooper or other person or persons, so offending or neglecting, shall forfeit the sum of five shillings for every such barrel, and two shillings and six pence for every such half barrel.

Packers not to mark any barrel not marked by the Cooper. VIII. *And be it further enacted* by the authority aforesaid, That the said Packers shall not set their packer's mark upon any barrel or half barrel of Beef or Pork, Pitch, Tarr, Rosin or Turpentine, that hath not on the said barrel or half barrel, the Cooper's mark as aforesaid.

Imported Pork to be marked N. IX. Whereas great quantities of Pork are imported from Roanoke and other Northern plantations, and exported from this part of the Province to several of his Majesty's Colonies, under the name of Carolina Pork, and marked with our Packer's mark, which may much prejudice the sale of our Pork in foreign parts, therefore, for the prevention of such inconvenience, *Be it further enacted*, by the authority aforesaid, That all such Pork as shall be imported as aforesaid, and shipt in order to be exported,

shall be marked with the letter N and packed by any of the Packers aforesaid, on the pain and penalty for every such barrel so shipt for any other market, without being packed and marked as aforesaid, the sum of five pounds. A. D. 1714.

X. *And be it further enacted* by the authority aforesaid, That if any of the Packers so nominated and appointed as before directed, shall depart this life or go off of this Province, or neglect to do his duty, any justice of the Peace residing near the habitation of such Packer or Packers so dying, going off, or neglecting his duty, shall, and he is hereby empowered and authorized to nominate and appoint another Packer in his or their room, and he or they so nominated and appointed shall be sworn and enter into bond, as is before directed for the qualifying of the several Packers, and shall have and receive the fees of all such goods so packed and marked by him or them as aforesaid, and shall be liable to the same fines and forfeitures, and under the same penalties and restrictions as in this Act against the said Packers herein nominated is provided, to be recovered in such manner and form, and for such use as fines and forfeitures against the said Packers nominated in this Act is ordered and appointed. Packer dying or leaving the Province.

XI. Whereas, the different length of Rice barrels exported, is very prejudicial to the owners of vessels, by making bad stowage, for the prevention thereof, *Be it enacted*, by the authority aforesaid, That every Rice barrel exposed to sale after the first day of December next, after the ratification of this Act, shall not be less than thirty-two inches long nor more than thirty three, on the pain and penalty that for every such Cooper or other person so offending or neglecting, shall forfeit the sum of five shillings for every such bagrel, and every person who shall offer to sale any Rice, shall put his proper burnt mark upon every cask of Rice as aforesaid, under penalty of forfeiting five shillings for each Rice cask so offered to sale. Gauge of Rice barrels.

XII. *And it is further enacted*, by the authority aforesaid, That all and every the offences against this Act, that shall or do not arise to above the sum of forty shillings, are to be inquired of, sued for, heard and determined before any justice of the peace in this Province, in the manner as small and mean causes are by virtue of an Act, intituled, an Act for the tryal of small and mean causes, made and ratified at Charlestown, the fifteenth day of October, one thousand six hundred ninety and two, and that all offences against this Act, which arise to above forty shillings, to be sued for, heard and determined in the Court of Pleas in this part of this Province by action of debt, or information wherein no essoign, protection or wager of law, shall be allowed to the Defendant; and the one moyety of all forfeitures by virtue of this Act, shall be to the publick use of this part of this Province, to be paid into the hands of the Treasurer appointed by the General Assembly, and to be disposed of as the Assembly for the time being shall think fit, and the other half to him or them that shall sue for the same, besides the costs thereby expended. Provided always, that every suit and information, which shall be brought upon this Act, shall be commenced in twelve months after any offence or offences therein mentioned is committed. Offences against this Act to be heard before a justice of peace.

XIII. *And be it further enacted* by the authority aforesaid, That this Act, and every thing therein contained, do continue in force five years, and no longer.

Read three times and ratified in open Assembly, December 18th, 1714.

CHARLES CRAVEN,
RALPH IZARD,
SAMUEL EVELEIGH,
VOL. II.—78.

CHARLES HART,
HUGH BUTLER,
ROBERT DANIELL.

A. D. 1714.

- *No. 342. AN ACT to revive and continue several Laws and paragraphs of Laws, and for repealing and making void some clauses in another Law.

(Ratified December 18, 1713. The original Act not now to be found. It continues the following Acts for two years, viz :—Act concerning Run-aways, March 1, 1700-1; Act concerning Beasts of Prey, May 8, 1703; Act concerning unmarked Cattle, September 17, 1703; Act concerning untanned Leather, September 17, 1703, the fourth paragraph excepted, as to the price of Shoes; Act concerning Pilotage, July 12, 1707; Act concerning a Public Store of Powder, July 12, 1707; Act concerning the General Post Office, July 12, 1707. Act concerning the Militia, July 19, 1707; Act concerning a Market at Charlestown, April 8, 1710; Act concerning Contagious Distempers, June 2, 1712; Act concerning the Fortifications at Charlestown and Johnson's Fort, June 7, 1712. Of this Act the paragraphs from 9 to 16 inclusive are continued for four years. Paragraphs 2, 3, 4, 5 of the present Act are repealed by Act of June 30, 1716, Section 34, and March 20, 1718-9.)

- *No. 343. AN ACT for raising the sum of £2000 of and from the Estates, real and personal, of the inhabitants of this Province.

(Ratified December 18, 1713. The original Act not now to be found.)

The two preceding Acts marked respectively No. 342* and 343* are not extant in original manuscript. They are noticed by Trott and by Grimke, and would appear to claim the numbers I have above assigned to them, were it not that No. 342 of the original manuscript Acts, commences the series of Acts of December 1714. The two Acts above noticed (No. 342* and No. 343*) belong to the sessions of December 1813, as appears from Trott's Laws of South Carolina, page 288.

- T. A. No. 16. AN ACT for the mending and keeping in repair the Causeway over Cumbee River in Colleton county.

(Ratified 12th June, 1714. See last volume. This Act is numbered 365 by Trott, and misdated. See Trott's Laws, page 290.)

- No 342. AN ACT TO ERECT A PAROCHIAL CHAPPEL OF EASE, SEPARATE FROM THE CHURCH OF ST. JAMES SANTEE, IN CRAVEN COUNTY, IN THE PARISH OF ST. JAMES.

Preamble. WHEREAS, the Parish of St. James Santee, in Craven county, is a Parish of large extent, and the habitations of many of the parishioners are remote and too far distant from the Parish Church, whereupon the Vestry men and several others of the parishioners aforesaid, have petitioned the General Assembly that a Chappel of Ease may be erected in one quarter of the said Parish, commonly called Itshaw, in which the book of common prayer, according to the rights and usage of the Church of England may be read, the word of God read and preached may be reverently

heard, and other parts of Divine Worship performed, and the Holy Sacrament administered in the like, and in as extensive a manner as all the said religious duties and services can or may be exercised and performed, in any Parochial Chappel of Ease in that part of Great Britain called England. And whereas the inhabitants of that quarter of the said parish called Itshaw, have for their better ease, greater quietness and conveniency, undertaken at their own proper costs and charges, to build and erect such a Chappel of Ease, therefore, for the encouragement of so good, pious and laudable an undertaking, for the glory of God, and for the advancement of piety, virtue and true religion,

A. D. 1714.

I. *Be it enacted*, by the most noble Prince Henry Duke of Beaufort, Palatine, and the rest of the true and absolute Lords and Proprietors of the Province of Carolina, by and with the advice and consent of the rest of the members of the General Assembly, now met in Charlestown for the South and West part of the said Province, and by the authority of the same, That a Parochial Chappel of Ease shall and may, immediately after the ratification of this Act, be erected on the South-east side of Itshaw Creek, where there was one formerly built, in the parish of St. James Santee, in Craven county, and that the inhabitants of that quarter of the said parish shall and may, at their own proper costs and charges, build and erect the same, which said Parochial Chappel of Ease to be erected and built as aforesaid, shall continue and remain, and be held, reputed, called, known and taken to be a Parochial Chappel of Ease from henceforth, for the administering the holy sacrament, reading the common prayer, preaching, burying and christening forever; and that the said Chappel of Ease, shall have and enjoy all the rights, benefits, privileges and immunities, as any Parochial Chappel of Ease in that part of the kingdom of Great Britain called England, can or may have, hold and enjoy, by any law, usage or custom, whatsoever.

A Chappel of Ease to be erected on the South-east side of Itshaw Creek, in St. James Santee.


II. *And be it further enacted* by the authority aforesaid, That all the inhabitants of that quarter of the said parish of St. James Santee, or thereabouts, and all such as shall hereafter there inhabit, shall and may resort to the said Chappelry for the purposes aforesaid, on the Lord's day and other holy days, for the performance of divine worship, and all the other purposes aforesaid, and shall be exempt and excused, and the said inhabitants are hereby exempt and excused from all fines, penalties and forfeitures to which they may be liable, for not resorting to the said parish Church, by any statute or common law of the Province.

III. *And be it further enacted* by the authority aforesaid, That the present Rector of St. James Santee, and his successors Rectors for the time being, shall, and he and they are hereby required and empowered, every other Lord's day, commonly called Sunday, after the said Chappel of Ease is built and finished as aforesaid, at proper and seasonable hours, to repair to the said Chappelry, and then and there celebrate divine service, according to the rubrick and liturgy of the church of England, and at proper times administer the holy sacrament, preach, and do and perform all other sacred and ministerial offices which may be done, exercised and performed in any Parochial Chappel of Ease whatsoever.

Service therein to be performed by the Rector of St. James Santee.

IV. *And it is further enacted* by the authority aforesaid, That the inhabitants of the said quarter of the parish of St. James Santee, living on the said South-east side of Itshaw Creek aforesaid, or any where thereabouts, or who shall or may hereafter live and inhabit there, and resort to and frequent the said Chappel of Ease, are hereby empowered to make an assessment as the majority of them shall agree, for the repairing the said Chappel as often as need shall require, and that the collector of

The inhabitants may make an assessment.

A. D. 1714.  such assessments by them, or the major part of them appointed, shall and may, upon refusal or denial of any the said inhabitants to pay his, her or their parts of such assessments, for to destrain the body and chattels of the persons so denying and refusing to pay, so that such distress be not excessive, but proportionate to the rate or duty to be paid, and the same to sell and dispose of for the payment of what he, she or they are assessed and rated, and the overplus, if any, after charges of distraining and selling are deducted, to the owner returned. Provided always, and it is hereby enacted, that nothing herein contained, shall be construed to extend, to alter, abridge or make void any matter or thing already enacted by an Act for the erecting of St. James Santee into a Parish, but that the same shall remain in all other matters in full force.

*Read three times and ratified in open Assembly,
the 12th day of June, A. D. 1714.*

CHARLES CRAVEN,
CHARLES HART,
RALPH IZARD,
RICHARD BERESFORD,
SAMUEL EVELEIGH.

Repealed by section 4 of an Act to repeal an Act, &c. 20th August, 1731.

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- No. 343. AN ACT for continuing the Road to Edisto Island, and making a Bridge over Dawho Creek, and finishing the Road to Port Royal, and making a Bridge over South Edisto River.

(Ratified June 12, 1714. Repealed by the 29th section of the Highway Act of September 15, 1721. *See last volume.*)

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- No. 344. AN ADDITIONAL ACT to an Act, entitled, an Act for the better ordering and governing of Negroes and all other Slaves.

(The Act referred to is No. 314. See Act of December 11, 1717; and March 20, 1718-9. Expired. *See last volume.*)

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- No. 345. AN ADDITIONAL ACT to an Additional Act, to an Act, entitled, An Act for preventing the Sea's further Encroachment on the Wharff of Charlestown, and for repairing the Bastions, Half Moon and Redoubts on the same.

(Ratified December 18, 1714. See Act of March 20, 1718-9, relating to the Fortifications of Charlestown, Sects. 19, 20, 21. *See last volume.*)

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- No. 346. AN ACT for making a High-Road out of Ashley River Road to the Plantation of Thomas Osgood, near Pon-pon River.

(Ratified December 18, 1714. Repealed by the General Highway Act of September 15, 1721, section 29. *See last volume.*)

A D. 1714

AN ACT for cutting, clearing and making a convenient Creek or Water-Course through that part of the Land belonging to Mr. John Jones, commonly called the Hallover.

No. 317.

(Ratified December 18, 1714. Repealed by the general Highway Act of September 15, 1721, section 29. *See last volumc.*)

AN ACT FOR APPOINTING AN AGENT TO SOLICIT AND TRANSACT THE PUBLICK AFFAIRS OF THIS PROVINCE IN THE KINGDOM OF GREAT BRITAIN.

No. 348.

WHEREAS, it is highly necessary, in order to remove and redress the grievances and pressures which this Province in point of trade or otherwise may at any time lye under, to appoint and establish a fit person, residing in Great Britain, in the quality of an Agent, to solicit and transact the publick affairs of this Province, either before the Parliament of Great Britain, the Lords Proprietors of this Province, the Lords Commissioners of Trade, or before any other power or person in that Kingdom proper to be applied to on any emergent or extraordinary business or occasion ;

Preamble.

I. *Be it therefore enacted* by his Excellency the Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, and by the authority of the same, That the Honourable Landgrave Abel Kettleby, of the Inner Temple, in London, in the kingdom of Great Britain, Esquire, shall be and he is hereby declared, nominated and appointed Agent for soliciting the publick affairs of this Province in the kingdom of Great Britain, and shall discharge that office by observing and following such directions, orders and instructions, as shall from time to time be sent him by the commissioners hereafter named, or any two of them, and shall during his agency correspond with the said commissioners, and from time to time send and remit to them such despatches, letters and accounts relating to the business of his said office as are proper and necessary for their knowledge and information.

Abel Kettleby
appointed
Agent.

II. *And be it further enacted* by the authority aforesaid, That the Hon. Samuel Eveleigh, the Hon. Colonel William Rhett, and Arthur Middleton, Esq. shall be and they are hereby nominated and appointed commissioners to correspond with the said agent ; and they, or any two of them, shall from time to time send and transmit to the said agent all such orders, directions and instructions, as they from time to time shall receive from the General Assembly, or a committee of them to that purpose appointed, as also all such further orders and instructions as they the said commissioners, or any two of them, shall judge proper and necessary for the benefit and improvement of trade and navigation and the common advantage and utility of this Province ; and shall likewise lay before the General Assembly all such answers, letters, messages and other papers as they the said commissioners shall from time to time receive from the agent aforesaid, any way concerning the publick affairs of this Province, and shall cease to be such by a vote of the House of Commons.

Commissioners
of correspond-
ence.

A. D. 1714.
Provision in
case of death.

III. *And be it further enacted*, That in case of the death or absence of any of the said commissioners, or on his or their refusal to act, the major part of them remaining shall make choice of so many other persons in his or their room as shall make up the number three, and the person or persons so chosen shall continue until removed by a vote of the House of Commons.

Salary of the
agent, £200
currency.

IV. *And be it further enacted* by the authority aforesaid, That the said Agent shall be allowed the sum of two hundred pounds, current money of this Province, yearly, as a salary for executing the office of Agent in Great Britain, and the publick Receiver is hereby authorized and required to pay the said salary to the said Agent, or his order, half yearly, that is to say, the sum of one hundred pounds at the end of every six months, and to commence from the tenth day of June last past, and so proportionably for every shorter time he shall continue his agency after any of his half yearly payments are expired; and shall continue Agent until removed by a vote of the House of Commons, who shall from time to time have power to appoint and depose the aforesaid Agent and his successors, according to their discretion for ever.

*Read three times, and ratified in open Assembly,
the 18th day of December, 1714.*

CHARLES CRAVEN,
CHARLES HART,
RALPH IZARD,
HUGH BUTLER,
SAM. EVELEIGH,
ROBERT DANIELL.

Expired.

No. 349. AN ACT for avoiding Deceits in Selling of Beef and Pork, Pitch and Tar, Rozin and Turpentine, by appointing Packers in several parts of this Province.

(Ratified December 18, 1714. The original Act not now to be found.
Q^u. If this be the same Act with T. A. No. 15, ante p. 615 ?)

* No. 349. AN ADDITIONAL ACT to an Act, entitled, An Act for raising the Sum of Two Thousand Pounds off and from the Estates Real and Personal of the Inhabitants of this Province, Ratified in open Assembly the 18th day of December, 1714; and for laying an additional Duty on all Negroe Slaves imported into this Province from any part of America.

(Ratified February 18, 1714-5. No such Act now extant.)

** No. 349. AN ACT for the mending and keeping in repair the Causways over the Marshes of Combee River, in Colleton County.

(Ratified February 18, 1714-5, for three years. Repealed by sect. 29 of the Highway Act of September 15, 1721. The original Act not to be found. Q^u. If this be the same Act with T. A. No. 16, ante p. 618.)

A. D. 1715

AN ACT TO CONFIRM AND JUSTIFY THE PROCEEDINGS OF THE RIGHT HONOURABLE THE GOVERNOUR, THE HONOURABLE THE DEPUTY GOVERNOUR, AND THE REST OF THE MEMBERS OF THE COUNCIL, IN THEIR ACTING FOR THE SERVICE OF HIS MAJESTY AND THE LORDS PROPRIETORS, IN DEFENCE OF THIS PROVINCE.

No. 350.

WHEREAS, the Yamasee Indians, and other Indians inhabiting about this Province, having made a most wicked and devilish conspiracy to cut off and utterly destroy the inhabitants of this Province, being his Majesty's liege subjects, and in pursuance of such their wicked designs, have most barbarously and cruelly murdered several of his Majesty's subjects belonging to this Province, and have commenced an open and cruel war against the government and people of this Province; and whereas, in order to oppose the violence of the enemy and to defend the Province, the Governour, the Honourable Charles Craven, Esq. ordered forces to be raised, and went in person to head the same, against the common enemy, and during his absence from Charlestown, did nominate and appoint the Hon. Robert Daniel, Esq. to be Deputy Governour, and to act and administer the publick affairs of this province, with the advice of the rest of the members of the Council of this Province, during such his absence; and whereas in order to defend this Province, and to assist the Governour with forces, arms, ammunition and other warlike stores, and other necessaries, it was thought necessary to publish and declare martial law throughout this Province, and likewise to lay an embargo on all ships and vessels in any of the harbours belonging to this Province, and also to press several of the inhabitants and several slaves for the service of this Province, and also to seize and use several horses and arms, ammunition and stores of war, and several other necessaries for the defence of this Province, and to do and perform several other acts, matters and things that the exigencies of affairs did require; that those proceedings in this extraordinary juncture, and the parties concerned therein may be indemnified, and for the preventing the trouble and charges the said parties might be put to, by any prosecution, information or indictment whatsoever, or by means of suits of any person whatsoever, for or by reason of the actings or doings aforesaid;

Preamble.

I. *Be it enacted*, by his Excellency John Lord Cartaret, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown, for the South-west part of this Province, and by the authority of the same, That the said actions and proceedings of the Governour, Deputy Governour, and the members of the Council, are hereby confirmed and declared to be absolutely necessary and useful for the defence of this Province, in this extraordinary juncture and danger, and that all indictments, informations, personal actions, suits and other prosecutions whatsoever, for or by reason of the premises, be, and are hereby discharged and made void, and if any action or suit hereby declared to be discharged, hath been or shall be commenced or prosecuted, every person so sued may plead the general issue, and give this Act, and the special matter in evidence, and if the plaintiff become nonsuit, or forbear further prosecution or suffer discontinuance, or if a verdict pass against him, the said defendant shall recover his double

Enacted,

That the proceedings of the Governor in this extraordinary juncture are declared necessary and useful.

A. D. 1715. costs, for which he shall have the like remedy as in cases where costs by law are given to the defendant.

*Read three times and ratified in open Assembly,
this 10th day of May, A. D. 1715.*

CHARLES CRAVEN,
CHARLES HART,
JOSEPH BOONE,
NICHOLAS TROTT,
SAMUEL EVELEIGH.

No. 351. AN ACT TO IMPOWER THE RIGHT HONOURABLE CHARLES CRAVEN, ESQ. GOVERNOUR, AND HIS COUNCIL, TO CARRY ON AND PROSECUTE THE WAR AGAINST OUR INDIAN ENEMIES AND THEIR CONFEDERATES.

WHEREAS, at this time of war with the Indians, it is highly necessary that the most proper measures be taken for the more speedy and effectual prosecution of the same;

I. *Be it therefore enacted* by his Excellency John Lord Cartaret, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, and by the authority of the same, That the Right Honourable Charles Craven, Esq. Governour, Captain General, and his Council, be invested with full power and authority, from time to time, to impress and take up for the publick service, all such ships, vessels, arms, ammunition, provisions, and all other military stores and utensils where-soever they may be had, as they shall think fit to employ and make use of, for the safety and preservation of this Province.

Governor im-
powered to
take up vessels
and military
stores.

II. And for the more effectual prosecution of the present war against the Indians, (such ships, vessels, arms, ammunition, provisions, military stores and utensils being first inventorised and appraised by the commissioners or any two of them in this Act hereafter appointed) also, for the greater ease and conveniency of the right honourable the Governour aforesaid and his Council, in execution of the powers granted them by this Act; *Be it further enacted*, That Mr. John Bee, Captain John Cock, and Mr. Edward Bradford be and they are hereby nominated and appointed Commissioners to perform and execute all such orders and instructions as they or any of them from time to time shall receive from the right honourable the Governour and his Council, as aforesaid, whether it be to impress and take up ships, vessels, arms, ammunition, provisions, military stores and utensils, or to do and perform any other matter or thing that the Governour and Council aforesaid in their wisdom shall think fit and necessary to be done for the publick service; and that in the case of death, sickness or refusal of any of the commissioners aforesaid to act in the premises, the Governour or deputy Governour, with the consent of his Council, be and they are hereby empowered to nominate other persons to be commissioners in their rooms, which persons so nominated shall have the same powers and authorities as if they were expressly appointed by this Act to be commissioners as aforesaid.

Commissioners
appointed to
execute orders.

III. *And be it further enacted*, That the aforesaid commissioners, or any two of them, shall inventory, appraise and value, according to the best of their judgment and understanding, all such ships, vessels, arms, ammunition, provisions, and military stores and utensils, which by the order of the Governour and his Council as aforesaid, they shall impress and take up for the publick service, and the same shall from time to time, in writing under their hands and upon their oaths, return and give in to the Governor and his Council as aforesaid, who are immediately under their hands to give a certificate to the person or persons from whom such ships, vessels, arms, ammunition, provisions and military stores and utensils are taken up and imprest, signifying the value and nature thereof, which certificate shall be a sufficient proof and voucher that the same ships, vessels, arms, ammunition, provisions and military stores and utensils were taken up and employed on the publick account, and shall to all intents and purposes subject and engage the publick faith and credit of this Province, to make full payment and satisfaction for the same.

A. D. 1715.

Inventory and appraisement to be made of vessels and military stores.

IV. *And whereas*, the great want of arms and ammunition has made it absolutely necessary to dispatch a vessel to the northward, and that in order to purchase the said arms and ammunition, it will be necessary also to send skins and other goods and merchandizes, to purchase and procure the same; therefore, that there may be a supply of such skins, goods and merchandizes, *Be it further enacted*, that it shall be lawful for the Governour, with the consent of his Council, and he is hereby impowered to issue forth his warrant, under his hand and seal, directed to the commissioners aforesaid, or any two of them, to take and seize into their hands such a quantity of skins and other goods and merchandizes, wheresoever they may be found, as the Governour aforesaid shall think sufficient, not exceeding the sum of two thousand five hundred pounds in the whole, to purchase such a quantity of arms and ammunition as aforesaid; and the same skins, goods and merchandizes, so seized and taken up shall be inventoried, valued, certified and accounted for, in such manner as is before provided in this Act.

Said commissioners may seize goods and merchandize to the amount of £2500.

V. *And whereas*, it is necessary that due care be taken of and sufficient provision made for sick and wounded persons, and likewise for such poor persons as are become so by the exigency of our present unhappy circumstances; in order therefore to their support and relief, *Be it further enacted*, that it shall and may be lawful for the Governour aforesaid, with the consent of his Council, and he is hereby impowered to issue forth his warrant under his hand and seal, directed to the commissioners aforesaid, or any two of them, from time to time, to seize and take up such quantities of medicines, spices, sugars, linen and all other necessities peculiarly proper for that use, as they in their discretion shall think fit; which medicines, spices, sugars, linen, and all other necessities, so seized and taken up, shall be inventoried, valued, certified and accounted for in the same manner as is before provided in this Act.

Also medicines and drugs.

VI. *And be it further enacted*, That the commissioners aforesaid, performing the duty enjoined them by this Act, shall be exempted from all other military duty, unless in case of imminent danger, who are then to repair under their proper colours.

Commissioners exempted from military duty.

VII. *And be it further enacted*, by the authority aforesaid, That martial law, as now proclaimed, shall extend no further than to military affairs, and that in all other respects the common law shall remain in the same force as it was before martial law was proclaimed.

Martial law to extend no farther than military affairs.

VIII. *Be it further enacted*, by the authority aforesaid, That all arms, ammunition, provisions and military stores, which have before the ratifi-

A. D. 1715. cation of this Act been impresst and taken up for the prosecution of the Indian war wherein we are now engaged, the proprietors thereof, or their assigns, shall be paid for them by the publick Receiver, according to the prices which shall by them be proved before the house of commons, to have been the value of them at the time of their being impresst and taken up for the publick service.

The proprietors of goods seized to be paid by public receiver.

In force for three months.

IX. *And be it further enacted* by the authority aforesaid, That this Act shall continue in force three months, and no longer.

In case of the absence of the Governor.

X. *And be it further enacted* by the authority aforesaid, That in case the Right Honourable the Governour aforesaid, shall at any time during the present war, think fit to take the field, and head the forces against the common enemy, that then the deputy Governour and Council shall execute the same powers and authorities as if the Governour aforesaid were actually present at that board; any thing herein before contained to the contrary notwithstanding.

Sessions continued for three months.

XI. *And whereas* this present House of Commons will expire in the month of August next, or thereabouts, and the present state of our affairs not admitting of a new election; *Be it therefore enacted* by the authority aforesaid, that this House of Commons shall continue three months next after the expiration thereof, any law or custom to the contrary notwithstanding, unless sooner dissolved by the Governour and Council,

*Read three times and ratified in open Assembly,
this tenth day of May, A. D. 1715.*

CHARLES CRAVEN,
CHARLES HART,
JOSEPH BOONE,
NICHOLAS TROTT,
SAM. EVELEIGH.

No. 352. AN ACT to impower the Right Honourable Charles Craven, Esq. Governour, Captain General, &c. with the consent of his Council, to raise Forces to carry on the War against the Indian Enemies and their Confederates, and also to establish Martial Law in this Province.

(Ratified May 13, 1715, for four months. Repealed by sect. 66 and 67 of Act of August 27, 1715, of the same session. The original too much torn and defaced to be copied.

No. 353. AN ACT for the appointing Agents to transact the Affairs of this Province with the Governour of Virginia and the Governour of Maryland, and to accommodate the Articles already made with the Government of Virginia, to the mutual satisfaction of all that are therein concerned.

(Ratified August 27, 1715. Original Act not now to be found.)

A. D. 1715.

No. 354.

AN ACT to raise Forces to prosecute the War against our Indian Enemies, and to stamp Bills of Credit for the Payment of the Army, and defraying the Charges of the War, and to ascertain a Fund for cancelling the same Bills, and to appoint Courts Martial, and to prohibit the Exportation of all European Goods, and Corn and Peas, and raw Hides and tanned Leather, and Negro Slaves.

(Ratified August 27, 1715, to continue till March 28, 1716. Expired. The original Act not now to be found.

AN ACT TO RAISE THE SUM OF THIRTY THOUSAND POUNDS, OF AND FROM THE ESTATES REAL AND PERSONAL OF THE INHABITANTS OF THIS PROVINCE, IN ORDER TO SINK THE LIKE SUM OF THIRTY THOUSAND POUNDS IN BILLS OF CREDIT, STAMPT FOR THE MORE SPEEDY CARRYING ON AND DEFRAYING THE CHARGES OF THE WAR AGAINST OUR INDIAN ENEMIES AND THEIR CONFEDERATES, AS ALSO FOR RAISING THE SUM OF THIRTY THOUSAND POUNDS TOWARDS DISCHARGING THE DEBTS CONTRACTED BY THE PUBLICK SINCE THE COMMENCEMENT OF THE WAR.

No. 355.

WHEREAS, by an Act of Assembly of this Province, entitled, An Act for raising Forces to prosecute and carry on the War against our Indian Enemies, as also to establish Martial Law, and to raise the Sum of Thirty Thousand Pounds, by stamping Bills of Credit, for defraying the charges of the War, and to appoint and ascertain a Fund for cancelling the said Bills, &c.—ratified the seven and twentieth day of August, Anno Dom. 1715—it is therein particularly provided and expressed, amongst other things, that in order to the strengthening the currency of the said bills, a fund should be appointed for sinking the same, by a tax to be imposed and levied equally and indifferently upon the estates real and personal, stocks and abilities of all and singular the inhabitants, merchants and all other persons residing or otherwise interested within this part of the Province that lies south and west of Cape Fear, at such times, and after such manner and form, and by such persons as by an Act of this General Assembly, ratified this present session, should be directed and appointed; and should be assessed, levied and paid on or before the six and twentieth day of March next, and should be applied, when raised, to the sole and only use of sinking and cancelling the Bills of Credit aforesaid, and to no other use, intent or purpose whataoever, as in and by the said Act of Assembly, reference thereunto being had, will at large appear: Therefore, in order to comply with the directions and appointment of the said Act, and that the said bills of credit may be sunk and cancelled at the time intended for sinking the same;

Preamble.

I. *Be it enacted* by his Excellency John Lord Cartaret, Palatine, and the rest of the true and absolute Lords and Proprietors of Carolina, £30,000 to be by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of the said Province, and by the authority of the same, That the sum of Thirty Thousand Pounds shall be equally and indifferently raised, imposed and

raised by a tax
on estates, real
and personal.

A. D. 1715

levied upon the estates, real and personal, stocks and abilities of all and singular the inhabitants, merchants and all other persons, residing or otherwise interested within this part of the Province that lies south and west of Cape Fear, at such times, and after such manner and form, and by such persons as is herein after mentioned and directed; that is to say, the aforesaid Thirty Thousand Pounds shall be assessed, levied and paid on or before the first Tuesday in April, which shall be in the year of our Lord one thousand seven hundred and seventeen.

Enquirers and
Inquisitors
appointed.

II. *And be it further enacted* by the authority aforesaid, That for the several parishes in this Province the several persons hereafter named are appointed to execute the powers given them by this Act; that is to say, for the several parishes in Berkley county, viz: for St. Philip's, Charlestown, Captain Thomas Hepworth, Mr. Andrew Allen and Mr. Francis Brasseur; for Christ Church Parish, Captain William Capers, Captain John Hartman and Mr. Thomas Barksdale; for the parish of St. Thomas, Mr. Richard Codner, Mr. Abraham Warnock and Mr. Jonathan Russ; for the parish of St. John's, Mr. John Moore, Mr. Hugh Butler and Mr. John Harlston; for the parish of St. James Goose Creek, Mr. William Adams, Mr. Benjamin Gibbs, Mr. John Parker and Mr. John Brown; for the parish of St. Andrews, viz. for James's Island, Mr. John Croskeys, Mr. John Wilkins, Mr. William Fuller, Mr. Manley Williamson, Mr. Thomas Waring, Mr. Shem Butler, Mr. Nathaniel Carr and Mr. William Stead; and for the parish of St. Dennis, or Orange Quarter, Mr. Peter Videau, Mr. Josiah Dupree and Mr. Peter Poitvin. And for the several parishes in Colleton county, are appointed the persons following, viz. for the parish of St. Paul's, for John's Island, Mr. Abraham Wait, sen. and Mr. Michael Reynolds; for Wadmelow Island, Mr. James Burr; for Edisto Island, Captain Henry Bower and Mr. Ephraim Michael; for Stono, and the branches thereto belonging, Mr. Thomas Farr; for the East side of Pon Pon and South Edisto, Captain William Maggott; and for the parish of St. Bartholomew, viz. for the south side of South Edisto, Israel Andrews; for Ashepoo, George Mitchell; for Combahe and Chehaw, Samuel Nichols: And for the parish of St. James Santee, in Craven county, are appointed Mr. Peter Perdrieau, Mr. Philip Gendron and Mr. Peter Robart, jun.; for English Santee, Captain John Cantey, Mr. Joseph Goodbee, and Mr. William Cantey: And for the parish of St. Helena in Granville county, are appointed, viz. for Port Royal Island, Robert Wilkinson, and for St. Helena and Combahee Islands, Mr. Arthur Dickey and Mr. John Beamor. Which persons so chosen by the General Assembly, are hereby appointed enquirors or inquisitors, and are to take and make an account of the estates, goods and merchandize, stocks and abilities, also of money by them, or in money lying at interest, in any person's hands, (but with due regard to the hazard and uncertainty of such money at interest, by reason of the present war,) or any other sort of estate of any kind or nature whatsoever, in this Province, (except the real estate of such of the inhabitants of this Province as by the chance of the war are drove from the same,) and also all places of profit, and all sort of stock of what kind or nature soever, that is to say, the number of all their neat cattle, horses, mares, sheep, swine, white servants, with their trades and the time they have to serve, slaves, their sexes, ages, trades and capacities, the quantity of lands (except as before excepted,) the place and places where the same lies in, the buildings and improvements thereon and belonging to the same; which account, taken and made as aforesaid, the said inquisitors shall in writing under their hands and on their oaths, on the third Thursday in January, 1716-7, return and give in Charlestown, at the house of Mr. Henry Seymour, to the assess-

To take an
account of
property of
all kinds.

And to take
an oath.

sors hereafter named; the form of which oath shall be in the words following, viz: "I, A. B. do sincerely swear, that the account of the estates, stocks, offices and places of trust, money in possession, or at interest, and abilities of the several persons whose names are comprised in the account I now give and return to you, is a full, just and true, account, according to the best of my knowledge and information, as by this Act is required: So help me God." And the said assessors, or any five of them, are hereby ordered to administer the said oath.

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III. *And be it further enacted* by the authority aforesaid, That Colonel George Logan, Captain Arthur Middleton, Mr. Benjamin Godin, Mr. William Gibbon, Mr. Thomas Diston, Mr. Peter St. Julien, Landgrave Joseph Morton, Captain William Bull, and Mr. Elisha Prioleau, be and they are hereby appointed Assessors, for the raising, taxing and assessing the aforesaid sum of Thirty Thousand Pounds, on the estates, stocks and abilities of all the inhabitants aforesaid, who shall meet at the house of Henry Seymour, in Charlestown, on the said third Thursday in January, 1716-7, and sit *de die in diem*, at the said house, or at such house as the major part of the assessors shall think fit to adjourn to, until they have indifferently and equally rated and assessed the said Thirty Thousand Pounds, on the inhabitants aforesaid; and the said assessment, so made fairly under their hands and seals, they shall indent, expressing the names of all and every person so assessed, with the sums of money each person is assessed at, with the value of his or their estates, and how much he or she is rated at per pound, before the name of each respective person; and the said indentures, so signed and sealed by them or any five of them, shall immediately deliver, one to the commissioners of appeals, by them to be returned to the Commons House of Assembly at their next sitting, and a copy of the same to the publick receiver. And the aforesaid assessors shall on the day aforesaid, before they begin to make the assessment aforesaid, before any two Justices of the Peace, take the following oath, viz; "I, A. B. do swear, that according to the best of my judgment, whether by information or my own knowledge, I will indifferently, equally and impartially rate and assess all and every person to me returned to be assessed by the inquisitors for that end appointed, according to their several estates, stocks and abilities to me given and returned: So help me God."

Nomination of Assessors.

Form of the oath.

IV. *And be it further enacted*, That if any person's estate is so mean that by the inquisitor's return the said assessors find such person's tax will not amount to two shillings and sixpence, in such case they are hereby directed not to assess the same, but strike him out of the said list, any thing in this Act to the contrary notwithstanding.

If tax does not amount to 2s6d. not to be levied.

V. *And be it further enacted*, That the publick Receiver shall by himself or some other person, some time before the fourteenth day of February, 1716-7, send to every set or number of inquisitors in each of the aforesaid parishes, a list of all and every the persons living in or belonging to the said inquisitor's respective parish, mentioning the sums of money they are rated and assessed, and at how much per pound, with the time and place appointed for payment thereof; and every of the aforesaid number of inquisitors, or any three of them, are hereby required on receipt thereof, to post the said list of assessments of their respective parishes at the church door of each parish, and at such other publick place as they shall think fit.

List to be sent to inquisitors.

VI. *And it is further enacted*, That the several persons assessed and rated as aforesaid, shall pay to the publick Receiver, in Charlestown, his assessment, on or before the first Tuesday in April, 1717; and in case any person shall neglect or refuse to pay his, her or their tax, at, or within

Tax to be paid to the publick Receiver, who may distrain.

A. D. 1715.

Receiver may
distrain for non
payment of tax.

the respective limited time appointed, the said publick Receiver is hereby required within twenty days after the day of payment, respectively to return the names of every person neglecting as aforesaid, to the next Justice of the Peace, together with the account of the sum of money each person is assessed, which Justice to whom such return is made, shall within five days after such return, by warrant under his hand and seal, directed to the next constable, cause distress to be made on the goods and chattels of the person against whom return as aforesaid was made, for the value of what he was at that day to have paid, together with the charge of distraining, keeping, appraising and selling the same; and in case the constable shall make return upon oath that he can find no goods or chattels to distrain, as aforesaid, in such case the Justice shall under his hand and seal give his warrant to the said constable, to seize and apprehend the body of said person against whom such return is made, and to gaol to carry, who by the gaoler shall be there kept without bail, till the publick Receiver shall certify to him, the gaoler, that the said person hath paid the money for which he was committed, and that he may discharge him, paying his fees. And every constable which shall make distress as aforesaid, shall keep the goods and chattels distrained three days, unless they shall be sooner redeemed by the owner for the money they were distrained for and charges thereon, and after three days shall cause the same to be appraised by three freeholders of the neighborhood, and as much thereof to the publick Receiver shall deliver as is valued at the money he was to make distress for, together with the charges of distraining, appraising, keeping and carrying to the Receiver, and the overplus to the owner to return. And any person or persons who after he is assessed shall depart out of this Province, before the respective day of payment before appointed, shall before they go off pay to the Receiver their assessment, or give security for the same, or for neglect thereof shall be prosecuted by the Receiver as persons who neglect to pay at the day of payment; any thing in this Act to the contrary notwithstanding.

How the inquisi-
tors and assess-
ors may be
rated.

VII. *And be it further enacted*, by the authority aforesaid, That the inquisitors and assessors aforesaid, shall be rated and assessed by Samuel Eveleigh, Ralph Izard and Benjamin Quelch, Esqs. Justices of the Peace, or any two of them, on their oaths, in such manner, and before such persons as the said assessors are required to rate and assess all other inhabitants aforesaid; and the said Justices of the Peace shall meet and sit at any house in Charlestown, on some of the same days the assessors are appointed to sit, until they have rated and assessed the inquisitors and assessors aforesaid, and make their return of having so done to the said assessors, before they have concluded and perfected the assessment; and that the said assessors may with all expedition perfect the assessment, they are hereby impowered to have one or more clerks, as they shall think fit, in completing the said assessment, and him or them to pay and satisfy out of the publick treasury, by an order under their hands to the publick Receiver, who is hereby required and impowered to pay the same.

Appeal
allowed.

VIII. *And be it further enacted* by the authority aforesaid, That every person which shall have reason to believe that he is over rated, may within twenty days before the day of payment aforesaid, make his appeal to the commissioners hereafter named to hear such appeals, which commissioners shall have power, and they are hereby impowered, to examine every person appealing, on his corporal oath, touching every particular thing and part of his estate, as in the list of particulars to them given in as aforesaid doth appear, and if they see reason for the same, may abate and default such person and proportion of the appellants tax as he shall swear off;

and the commissioners shall certify to the publick Receiver, some time before the day of payment, their proceedings thereon; and that Charles Hill, Esq. Mr. Benjamin Delaconseillere and Mr. Jacob Saher, or any two of them, are hereby appointed commissioners of appeals to be made as aforesaid, and shall meet and sit in Charlestown, at such house as they shall approve, and shall continue sitting every of the twenty days next before the respective day of payment, if thereto required.

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IX. And whereas, it may so happen that some persons who may be willing to appeal from their assessment aforesaid, may be officers or enlisted soldiers, and in actual service, by which means it would be very inconvenient for such persons to come to Charlestown, to make their appeals; to avoid which inconvenience, *Be it enacted* by the authority aforesaid, That in case any person, either officer or soldier, being in the publick service, and who shall think himself obliged to appeal from his assessment, that then and in such case, it shall be lawful for such person, and he or they are hereby permitted to appeal from their respective assessments to any field officer then in the army, which field officer is hereby empowered to examine and administer the usual oath to each respective appellant, a certificate whereof being returned by such field officer to the publick Receiver, in Charlestown, shall be as effectual to all intents and purposes in the law to such appellant, as if he had made his appeal to the commissioners of appeals nominated by this Act, and the publick Receiver is hereby required to make such respective abatements according; and the field officer aforesaid is hereby required to make out and return such certificate to the said publick Receiver, any thing before contained in this Act to the contrary notwithstanding.

Soldiers may appeal to a field officer.

X. *And be it also enacted* by the authority aforesaid, That the inquisitors are to return the slaves by any person sent off this Province, at any time since the commencement of the war, as though such slaves were as yet in this Province, but are to return no more of any person's crop or other produce than is to be disposed of, and not that which is designed for the use of the family, and the assessors are hereby ordered to assess no more of any person's crop than is for sale.

In case of slaves sent away.

XI. *And be it enacted*, That if in the assessing the Thirty Thousand Pounds aforesaid, any fraction less than a fourth part of a penny ariseth, the assessors may raise and assess such fractions, notwithstanding the same may arise to more than Thirty Thousand Pounds; any thing in this Act to the contrary notwithstanding.

Small fractions of money assessed may be raised.

XII. *And be it further enacted* by the authority aforesaid, That every inquisitor, every assessor, every justice of the peace, the publick receiver, every commissioner of appeals and every constable which shall neglect or refuse to do and perform that charge and trust which is hereby to them given and committed, shall for each neglect forfeit the sum of forty pounds, to be recovered in any court of record in this Province, by bill, plaint or information, in which no wager of law or protection shall be allowed, one half thereof to the publick receiver, for the use of the publick, and the other half to him or them that will sue for the same.

Penalty on refusal or neglect of duty.

XIII. *And be it further enacted* by the authority aforesaid, That when the said tax, amounting to the full sum of Thirty Thousand Pounds as aforesaid, shall be raised, levied and paid in to the publick receiver, as is before directed and appointed, the publick receiver shall immediately call in and cancel and put on a file the aforesaid bills of credit, stamp for the more expeditious carrying on the war against our Indian enemies and their confederates, amounting to the sum of Thirty Thousand Pounds, and the fund of the said tax amounting to thirty thousand pounds, is hereby ordered

When the £30,000 is raised, the bills of credit before issued to be cancelled.

A. D. 1715.

and declared to be disposed of for and towards the sinking the bills of credit aforesaid, and to no other account, end or purpose whatsoever; and the commissioners of appeals aforesaid, are here hereby impowered and required to see the said bills of credit cancelled and filed accordingly.

The said £30,000 to be applied to cancelling bills of credit.

XIV. And whereas, it is highly just and necessary that the publick debts already contracted since the commencement of this war should be paid and satisfied, in order to support the publick faith, and to give encouragement for further credit for the future; *Be it therefore enacted* by the authority aforesaid, That the sum of Thirty Thousand Pounds, current money, shall be equally and indifferently raised, imposed and levied upon the estates, real and personal, stocks and abilities of all and singular the inhabitants, merchants and all other persons residing or otherwise interested within this Province, after the manner and form and by the same persons as is directed and appointed before in this Act, for raising the sum of thirty thousand pounds, to sink the bills of credit aforesaid; and shall be assessed, levied and paid to the publick receiver aforesaid, on or before the second Tuesday in April which shall be in the year of our Lord one thousand seven hundred and sixteen, and shall by the commissioners hereafter named be applied for and towards discharging and paying the debts already contracted by the publick, in such method and manner as is hereafter directed.

Commissioners to meet and audit accounts against the public.

XV. *And be it further enacted*, That before the time appointed by this Act for raising and paying the said sum of thirty thousand pounds, viz. on the first Tuesday in October next, and the first Tuesday in March following, the commissioners hereafter named, or any three of them, shall meet together at the house of Mr. Henry Seymour, in Charlestown, and there to sit from day to day, not exceeding ten days at each time, of which times and place all persons with whom the publick has contracted any debts since the commencement of the present war, are to take due notice, and are then and there to bring in their respective accounts, in order to have the same examined and adjusted; which being done by the commissioners hereafter named, and the several creditors, having by sufficient vouchers proved their accounts and demands to the satisfaction of the said commissioners, or any three of them, (who in proving the same are to take the oaths of the respective creditors in such case only where from the nature thereof other proof could not be produced,) the said commissioners or any three of them, are then to draw an order under their hands, directed to the publick receiver, and payable to the respective creditors, for so much money, for the first payment, as the one half part of the whole debt due to such creditor by his stated account will amount to; and the publick receiver is hereby impowered and required to discount all such orders in payment of the tax of each respective person to whom such orders are granted, and to make due payment of the overplus (if any there be) to such person, when the tax aforesaid shall be raised and paid into his hands as aforesaid.

Nomination of commissioners.

XVI. *And be it further enacted*, That Col. Thomas Broughton, Col. George Logan, Landgrave Joseph Morton, Ralph Izard and Benjamin Quelch, Esqs. be and they are hereby nominated and appointed commissioners for executing the powers hereby given them for examining and adjusting the publick accounts aforesaid, and for passing orders on the publick receiver for payment of the same; and that in case of the death, absence or refusal of any of the said commissioners to act in the premises, it shall be lawful for the remaining commissioners, or any three of them, to choose others in their room, and the persons so chosen shall have the same power as if they were named in this Act, and shall continue until removed by a vote of the House of Commons, and shall render an account

of their transactions to the House of Commons as often as they shall be thereunto required. A. D. 1715.

XVII. *And be it further enacted*, That Mr, Thomas Barton be and he is hereby appointed Clerk to the Commissioners aforesaid, who shall be allowed for his pains, pen, ink and paper, the sum of ten shillings per day for every day he shall attend the commissioners aforesaid, to be paid from time to time, by an order under the hands of the said commissioners, or any three of them, directed to the publick Receiver, who is hereby impowered and required to pay all such orders. Clerk appointed, and his pay.

XVIII. *And whereas*, it may so happen that some of those persons that by law are appointed inquisitors and assessors, and other officers concerned in and for raising of the tax for the sum of thirty thousand pounds, may be obliged to be in the army, and thereby incapacitated to discharge their respective duties aforesaid, That then, and in such case, the Right Honourable the Governour, or Deputy Governour, or President of the Council, shall have power, and they are hereby impowered, to nominate and appoint other men in the room of such persons that serve in the war, who shall be under the same oaths, restrictions, fines and limitations, as the inquisitors and assessors are that are first nominated in this Act, any thing in this Act to the contrary notwithstanding. Governor may appoint substitutes.

XIX. *Whereas*, by the Act for settling a salary on the publick Receiver, ratified in open Assembly the first day of March, 1710, it is amongst other things therein enacted, that the person appointed Receiver by vote of the House of Commons, shall not continue in the said office any longer at one time than the space of three years next after his admission, and from thence to the next session of the General Assembly, as by the said Act appears; and whereas Alexander Parris, Esq. who by vote of the House of Commons was appointed Receiver, pursuant to the said Act, hath continued in the said office near the term limited by the said Act, and ought, according to the direction of the Act aforesaid, to cease acting as publick Receiver, when the time is expired; nevertheless, in regard to the present circumstance of publick affairs, and the great usefulness and approved diligence and fidelity of the said Alexander Parris, *Be it enacted*, That the said Alexander Parris shall continue publick Receiver during the limitation of the Act for raising Forces under pay, &c. ratified in this present session, and from thence to the end of the first session of the next General Assembly following, and no longer; any thing in the Act before mentioned to the contrary in any wise notwithstanding. Publick Receiver continued.

*Read three times and ratified in open Assembly,
the 27th day of August, 1715.*

CHARLES CRAVEN,
ARTHUR MIDDLETON,
CHARLES HART,
GEORGE LOGAN,
NICHOLAS TROTT,
ROBERT DANIELL,
SAMUEL EVELEIGH.

Repealed by Act of June 30, 1716.

A. D. 1715.

No. 356. **AN ACT FOR RAISING FORCES TO PROSECUTE THE WAR AGAINST OUR INDIAN ENEMIES, AND TO STAMP BILLS OF CREDIT FOR PAYMENT OF ARREARS DUE TO THE SOLDIERS ENLISTED IN THE ARMY BY THE LATE ACT, RATIFIED THE 27TH OF AUGUST LAST, AND TO PROHIBIT THE EXPORTATION OF CORN AND PEAS.**

Preamble. FORASMUCH, as the measures that have been hitherto taken, for carrying on the War against the Indians, now in enmity with us, have been found by experience to be of great use, and by the blessing of God have in some measure put a stop to the barbarous cruelties and incursions of our enemy Indians upon this government, and forasmuch as it is still necessary, that a body of white men be sent up and joined with our friendly Indians the Chariques, to go against the Creek Indians, and that several garrisons be erected upon the frontier part of this government, for the defence of the same, and to encourage the inhabitants to return with the more safety to their plantations. Therefore, in order to raise and maintain a sufficient number of soldiers to carry on the war, under such pay, provision and allowance, as will be a sufficient inducement to all persons to enlist themselves in the public service,

I. *Be it enacted*, by his Excellency John Lord Carteret, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown, for the South and West part of the said Province, and by the authority of the same, That one hundred white men shall be raised and enlisted, for the Chariques ***** or any other service that the Governor, with consent of his Council, shall think convenient, in such method and manner, and under such provision, pay and allowance, as hereafter in this Act is appointed.

One hundred
Volunteers
may be enlisted

II. *Therefore be it enacted*, by the authority aforesaid, That it shall and may be lawful, to, and for the right Hon. Charles Craven, Esq. Governor and Captain General, &c. and to and for the right Honourable the Governour for the time being, and he is hereby empowered and requested, to issue forth his orders under his hand and seal, directed to Lieutenant General _____ or to some other officer under him, to go at the head of every Company, of either Regiment of this Province, there to enlist as many Volunteers, for the expedition to the Chariques or any other service that the Governor, with the consent of his Council shall approve, as will make up the number of one hundred. But in case there be not a sufficient number of volunteers, then the said _____ or any other officer under him, are hereby empowered equally and impartially, to draw or impress, so many of the remaining part of the said Company, as will make up the number of one hundred, a list of which men, subscribed by the said _____ shall be immediately returned to the Governor, deputy Governor or Commander-in-chief, and the men so enlisted, and being completely armed at their own charge, or in case of inability, at the charge of the publick, to be deducted out of their pay, shall be ready to march to the Chariques or any other place, so soon and at such time, as the right honorable the Governour, Deputy Governour and Commander-in-chief shall order, under the command of _____ or such other person as the Governor shall think fit to appoint for that expedition, and there shall follow and ***** time to time the commands of them ***** or such other superior officer or officers, as shall be placed

Volunteers to
be armed at
their own
charge, if of
ability to do so.

over them, and be under the same command and obedience during the limitation of this Act. A. D. 1715.

III. *Be it further enacted*, by the authority aforesaid, That the said hundred white men, soldiers, when raised, shall be commanded by one Lieutenant General or such other title as the right honorable the Governor shall think fit to give to the superior officer, and four other officers under him, with such titles and distinctions as the Governor shall think convenient to give them. The superior officer of the said forces for the Charique expedition, to have forty pounds per month, other three officers under him, to have each of them sixteen pounds per month, and the other officer twelve pounds per month, to be paid them out of the publick Treasury, by the Paymaster hereafter appointed, for every month he or they shall continue in the public service, to be paid quarterly, and commence from the day of his or their enrollment. Pay of the officers.

IV. *Be it further enacted*, That each and every of the hundred men which shall be raised and enlisted for the Charique expedition, being footmen, shall have and receive six pounds per month, and for every horseman providing himself a horse, seven pounds per month, to be paid him or them out of the publick Treasury, by the Paymaster hereafter appointed, for every month he or they shall continue in the public service, to be paid at the end of every three months, and to commence from the day of his or their enrollment. Pay of the men.

V. *And whereas*, it is necessary that small garrisons be erected at such convenient parts, on the frontiers of this Province, as may be for the further security of the same, *Be it enacted*, and it is hereby further enacted, by the authority aforesaid, That the right honorable the Governor or Deputy Governor and his Council, be empowered, and they are hereby empowered to erect and furnish with men, all and every of the Garrisons hereafter mentioned; that is to say, a Garrison on Santee River, at the plantation of John Herne, deceased, to be defended by fifteen men and one commander. A garrison at the Savano Town, at the place where it now is, to be defended by forty men and a Captain, and one Lieutenant. A garrison at Rawling's Bluff, on Edisto river, to be defended by ten men, one officer included. A garrison at Port Royall, to be defended by twenty-eight men, a Captain and two Lieutenants included. A garrison at Rowland Evane's, on Cambahee river, to be defended by twenty men and one commander included, and a garrison at the Horse Shoe, to be defended by ten men, one commander included. Garrisons to be appointed and furnished.

VI. *Be it further enacted*, That all and every of the forementioned garrisons, when erected and the men placed in them, as by the direction of this Act, shall be and remain garrisons for the defence of this Province, so long as to the limitation of this Act, and no longer. Provided nevertheless, and it is hereby further enacted and declared, that if the right honorable the Governor, by the advice of his Council, shall think it needful, as the danger of the enemy shall lessen, to break up and discharge any or all of the said garrisons, that at the Savanoe Town excepted, before the time of the limitation of this Act is expired, it shall and may be lawful for the said Governor, Deputy Governor or Commander-in-chief, with the consent of the Council, to break up or discharge, all or so many of them as they shall see reason for, any thing in this Act to the contrary, in any wise notwithstanding. Garrisons to remain such during the continuance of the War, and no longer.

VII. *And whereas*, it is impossible to procure men for to erect and man the said garrisons, unless care be taken to pay and maintain the men for the time they shall be in the said garrisons on the public service, Pay of Garrison officers.

A. D. 1715

Be it therefore enacted, That the commander of the Savanoe Town garrison, shall have sixteen pounds per month, his Lieutenant twelve pounds per month; the commander of Port Royal garrison sixteen pounds per month, his Lieutenant twelve pounds per month; and the commanders of each and every other garrison before mentioned in this Act, shall have and receive each and every of them ten pounds per month, to be paid to them out of the Public Treasury, by the Paymaster hereafter appointed, for every month he or they shall continue in the publick service, to be paid quarterly, and the time to commence from the day of his or their enrollment.

Pay of the
Privates.

VIII. *And be it further enacted*, by the authority aforesaid, That every private soldier enlisted or drawn out for the publick service, in any of the said garrisons, shall have and receive four pounds per month, for every month he or they shall continue in the said service, and one pound more per month to such of the men, in any of the said garrisons (that at Port Royall excepted) who shall provide themselves horses for the public service, to be paid quarterly, out of the public Treasury, by the Paymaster hereafter appointed, and the time to commence from the day of his or their enrolment.

Governour to
issue orders of
enlistment.

IX. *And be it further enacted* by the authority aforesaid, That the right honorable the Governour, be empowered and he is hereby empowered and desired, to issue forth his orders under his hand and seal, to such person or persons as he shall think fit to enlist as volunteers, or press so many men out of the several companies of this Province, as will make up the number of one hundred and seventeen, for the garrisons before mentioned, in such manner and method as he is empowered and desired by this Act to enlist or impress the men for the expedition to the Chariques, or any other service.

Soldiers being
wounded.

X. And for the greater encouragement of all such persons who shall serve in this present expedition to the Chariques or any other service, *Be it further enacted*, by the authority aforesaid, That every person who shall be enlisted in the public service, by virtue of this Act, and serving in the expedition to the Chariques or any other service, and shall be maimed in his body or limbs, and thereby rendered incapable of maintaining himself, such person or persons shall be taken care of and maintained at the public charge by an ordinance of the General Assembly, as well for his healing and recovery as for his maintenance and support, if rendered incapable to maintain himself.

Compensation
to the friendly
Indians.

XI. Forasmuch as this government has prevailed with the Tuscorora Indians that are now in this Province, to continue in the same to the Fall of the year, and to be at the Garrison at Port Royal, in order to carry on the war against the Yamasees and other our enemies, *Be it enacted*, by the authority aforesaid, That each and every of the Tuscorora Indians before mentioned at and upon the time of his or their returning to North Carolina, shall have and receive from the Public Receiver one good trading Gun and one Hatchett. And for a further reward to the said Indians, *Be it enacted*, That if any of the said Indians shall happen to be killed in the public service by the enemy, for every Indian so killed, there shall be a slave of the said Tuscorora nations given to them by the publick for the loss of such of the Tuscororas as shall be killed.

Captives taken
by friendly
Indians.

XII. *And whereas*, among other things promised to the Tuscorora Indians to stay among us and assist us against our enemies, it is agreed to, that for every Indians enemy slave they shall take and bring in, there shall be returned in lieu another slave of their own nation, *Be it therefore enacted*, by the authority aforesaid, That any Tuscorora Indian who shall, after the ratification of this Act, take captive

any of our Indian enemies, shall have given up to him in the room thereof one Tuscorora Indian slave, and the honorable the Governor, Deputy Governor or Commander-in-chief, is hereby empowered to impress any such Tuscorora Indian slave for the purpose aforesaid, which slave so impress by virtue of this Act shall be valued and appraised by one Justice of the Peace and two Freeholders upon oath, and delivered up to the Indian who shall make a lawful claim thereto, and the said Justice of the Peace and two Freeholders shall grant to the master or mistress of the said Tuscorora Indian slave a certificate, setting forth the sex, age and value of the said slave, which certificate being produced to the Publick Receiver, shall be a sufficient authority for him to pay the same.

A. D. 1715.

XIII. *And be it further enacted*, by the authority aforesaid, That all or any of our Indian enemies which shall be exchanged for Tuscorora slaves, Indians exchanged for Tuscorora slaves, be delivered to the Public Receiver for the use of the publick, who is hereby ordered and directed to sell the said slave or slaves for the use of the publick, to such who shall give the most; the buyer at the same time giving bond to export the said enemy slaves in two months after the sale thereof.

XIV. *Whereas*, the several Garrisons that by virtue of this Act, are to be erected, will require stores of amunition, provision and several other necessities for the support and defence of the same, and whereas several of the said Garrisons will be at great distance from Charlestown and other settlements of this Province, which consequently will require negroes, horses, periaugers or canoes for the carrying all such necessities as will be wanting for the use of the said Garrisons, &c., *Be it therefore enacted*, by the authority aforesaid, That if at any time the Governor, Deputy Governor or Commander-in-chief, with the consent of the Council, or the commanding officer of any of the aforesaid Garrisons, shall have occasion for provisions, horses, periaugers or canoes, or any other necessities for the use of the Garrisons, or for negroes or other slaves, to go in periaugers or canoes on any other messages, or to carry burthens, or to work on any of the Fortifications to be erected, it shall and may be lawful for the persons aforesaid, or any of them, and they and every of them are hereby empowered to impress all such provisions, or any other necessities as aforesaid, and negroes or other slaves, as they shall have occasion, for the service of the Garrisons, any thing in this Act or any other Act, to the contrary in any wise notwithstanding.

XV. *And that* the owners of all negroes, horses, periaugers, canoes, &c. impress for the public service, may have just satisfaction for all damage which may accrue to them while made use of by the publick, *Be it therefore enacted*, by the authority aforesaid, That all negroes, horses, periaugers, canoes, &c. which shall by virtue of this Act be taken up or impress for the use of the publick, shall before made use of, be valued and rated by two or three of the neighbours thereabouts, and a certificate of the value granted to the possessor thereof, which negroes, horses, periaugers, canoes, &c. when discharged and returned to the owner by the publick, shall in the same manner be a second time valued, that a just estimate may be made of what damage they may have sustained while in the public service, and what damage shall be found upon a second valuation to have been done to such negroes, horses, periaugers, canoes, &c. a certificate thereof shall be given to the owner, who upon producing the said certificate to the Publick Receiver, shall be entitled to the amount of the said damage, to be paid him out of the Public Treasury, and the Public Receiver is hereby ordered and directed to pay the same.

XVI. *And be it further enacted*, by the authority aforesaid, That the

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Out of the public Treasury.

person or persons from whom such provisions or any other necessities for the use of the aforesaid Garrisons shall be imprest, shall be paid for the same out of the Publick Treasury, by an order under the hand of such person or persons who imprest or took up the same, directed to the Paymaster hereafter appointed, and certifying the particulars and value of such provisions or other necessities so imprest and taken up, and the time and value of the work of such negroes so made use of and employed, which certificate the said persons are hereby required to grant, and the Paymaster is required duly to pay the same.

Penalty on refusing to give up articles imprest.

XVII. *And be it further enacted*, by the authority aforesaid, That if any person or persons from whom such provisions or other necessities shall be imprest, or whose negroes or other slaves shall be taken up and employed as aforesaid, shall refuse to deliver and withhold the same, upon proof thereof by oath made by one witness before the next Justice of the Peace, who is hereby empowered to administer the same, he, she or they so offending, shall forfeit to the Paymaster hereafter appointed, for the use of the publick, the sum of ten pounds, current money of this Province, to be levied by Warrant of such Justice by distress and sale of his goods, rendering the overplus to the party after deduction of reasonable charges in taking and selling the same.

Impressed articles not to be taken from the poor.

XVIII. *And be it further enacted*, by the authority aforesaid, That all negroes, horses, canoes, corn, peas, be taken and imprest from such only who, by their abundances are best able to spare them, that poor people may not be too much oppressed by having their conveniences prester from them.

Price allowed for articles voluntarily brought in.

XIX. *Whereas*, we have reason to apprehend that Corn and Peas may grow scarce, and the Garrisons in this Province may be in want thereof, *Be it further enacted* by the authority aforesaid, That in order there may constantly be kept a supply thereof to answer the publick occasions, every person who shall bring in Corn or Peas to the Publick Receiver, shall be allowed five shillings per bushel for every bushel of Corn and Peas so delivered for the use of the publick, and the Publick Receiver is hereby ordered to receive the same and give receipts to such persons for that purpose, which receipts when produced to the Publick Receiver, shall engage the publick faith to make them satisfaction out of the bills of credit which shall be struck to defray the contingent charges of this government. In consideration of which encouragement, *Be it further enacted*, by the authority aforesaid, That no Corn or Peas be exported out of this Province, and if any Corn or Peas be laden on board any vessel, in order for exportation, the same shall be seized to all intents and purposes, one half to the informer and the other half for the use of the publick.

Surplus provisions may be sold.

XX. *And be it further enacted*, by the authority aforesaid, That in case the honorable the Governour, Deputy Governour, or Commander-in-chief, shall, between the ratification of this Act, and the time of the new crop, think that there be more Corn and Peas than shall then be necessary for the service of the publick, he shall have power, and he is hereby empowered to issue out his orders to the Publick Receiver, to make sale and dispose of the same for the use of the publick.

Paymaster appointed.

XXI. *Be it further enacted*, by the authority aforesaid, That Colonel Alexander Parris is, and he is hereby appointed Paymaster to the forces now bound on the expedition to the Chariques, and to all the other forces that are to be in the several Garrisons now appointed by this Act to be erected, and the said Paymaster is hereby ordered and directed, to pay off all such orders as shall be from time to time drawn on him, for the payment of the soldiers and other necessities for the use of the War, by virtue of

this Act, out of such monies as shall be put into his hands for that purpose, and he shall be under the same rules, restrictions and limitations, as by the late Act ratified the 27th of August, 1715, he was liable to, and entitled to the same pay, any thing in this Act to the contrary in any wise notwithstanding.

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XXII: *Be it further enacted* by the authority aforesaid, That from and after the ratification of this Act, every person being in the service of this Province in the army, and being enlisted and in pay as an officer or soldier, who shall at any time before the expiration of this Act within this Province, excite, cause, or join in, any mutiny or sedition in the army, or desert the publick service in the field or garrison, or shall refuse to obey his superior officer, or shall resist any officer in the execution of his office, or shall strike, draw or offer to draw, or lift up any weapon against his superior officer upon any pretence whatsoever, or shall be guilty of any notorious cowardice in time of action, or shall side with or hold any correspondence whatsoever with any of our enemies, that now are or shall be in open rebellion against this government, he or they so offending and being duly convicted thereof, shall suffer death or any other punishment, as by the Governour, Deputy Governour or Commander-in-chief and the Council shall be inflicted, within six days or sooner, after he or they shall be taken by, or committed to the custody of the Field Marshal.

Punishment for mutiny

XXIII. *And be it further enacted*, by the authority aforesaid, That the honorable the Governour, Deputy Governour, or Commander-in-chief, with consent of the Council, may, by virtue of this Act, have full power and authority from time to time, to inflict such punishment on the offenders aforesaid, as is usually inflicted on such by a Court Martial.

May be inflicted by Governour and Council.

XXIV. *And be it further enacted*, by the authority aforesaid, That on the commission of any other crime or misdemeanor by any soldier, not extending to life or limb, every respective officer shall have power to inflict such punishment as he in his judgment, shall think proper and suitable to the nature of the crime.

Misdemeanors by privates.

XXV. *Be it further enacted*, by the authority aforesaid, That nothing in this Act contained, shall extend or be construed to exempt any officer or soldier whatsoever, from the ordinary process of the law in criminal affairs. Provided also, that this Act or any thing herein contained, relating to the power now granted to the Governour, Deputy Governour and Council, shall not extend or be any wise construed to extend, to effect or concern any person or persons in this Province, but those only who shall be enlisted by virtue of this Act and under pay.

This Act to extend only to forces enlisted.

XXVI. *And be it further enacted*, by the authority aforesaid, That there shall be a Field Marshal who, by himself or his Deputy, shall give due attendance at all times on the Governour, Deputy Governour or Commander-in-chief and Council, and shall obey and put in execution all such orders, judgments and sentences of the Governour and Council, pursuant to the Warrants to him for that purpose to be directed by them, which Field Marshal shall, from time to time, until the expiration of this Act, be nominated, commissioned, placed and displaced by the Governour, Deputy Governour or Commander-in-chief aforesaid, according to his pleasure and the terms inserted in his commission, and shall be allowed and payed out of the Publick Treasury, after the rate of six pounds per month for every month he shall continue Field Marshal, to be paid by the Paymaster aforesaid, at the end of every three months, and to commence from the date of his commission.

Field Marshal appointed.

His pay.

XXVII. *And be it further enacted*, by the authority aforesaid, That the Field Marshal that shall be commissioned by the Governour or Deputy

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Field Marshal
to receive no
fee.

Governour, to put in execution the several powers herein granted by this Act, and to whom a salary out of the Publick Treasury is allowed, shall not, for and on account of any person or persons as aforesaid being committed to his charge, and during the time of his or their being kept in or discharged from his custody, receive any fee or reward whatsoever, but only for his or their provisions, during the time of such person or persons being so confined.

Two surgeons
to be provided.

XXVIII. *And be it further enacted*, by the authority aforesaid, That there shall be provided for the use of the army going to the Cherikees, and for the Southern Expedition, each, one able chyrurgeon, who shall be allowed for his service in diligently tending on the sick and wounded men, the sum of ten pounds per month, and one chyrurgeon for the same service, to continue at the garrison, at Savanoe town, who shall have eight pounds per month, to be paid, each of them, out of the publick treasury.

Bills of credit
to be stamped
to the amount
of £5000.

XXIX. *And whereas*, the £30,000 lately struck for the payment of the army, have not been found sufficient for that purpose, and several arrears of the soldiers' pay remain yet unsatisfied, by reason of no money being in the publick treasury; *Be it therefore enacted* by the authority aforesaid, That there be immediately printed and stamped a certain number of bills of credit, not exceeding five thousand pounds, which money when so made shall be paid into the hands of the publick Receiver, in order to make satisfaction to the soldiers to whom this Province is indebted for their arrears; and the commissioners appointed in the late Act for stamping thirty thousand pounds bills of credit in this Province, are hereby ordered and directed to draw on the publick Receiver for that purpose.

Under provis-
ions of a former
Act.

XXX. *And be it further enacted* by the authority aforesaid, That the commissioners appointed in the late Act for stamping thirty thousand pounds bills of credit in this Province, be appointed likewise commissioners to print and sign the bills of credit to be struck by virtue of this Act; and they are hereby invested with the same full powers and authority, to all intents and purposes, as they are invested with by virtue of the said Act.

Nomination of
commissioners.

XXXI. *Whereas*, since the commencement of the present war, the publick has contracted several debts with divers persons, by means of vast quantities of goods and other necessities, that have been impressed or otherwise taken up for the publick service during that time, and it being highly reasonable that the accounts of such persons from whom such goods and necessities were so impressed or taken up should be stated and duely settled and adjusted in order to their being paid and satisfied for the same, *Be it therefore enacted* by the authority aforesaid, That Charles Hills, Peter St. Julien, William Gibbs, Elisha Prioleau, and Shem Butler, be and are hereby appointed commissioners for settling and adjusting the said accounts; and that they or any three of them do meet to transact the same in Charlestown, and that they have power to adjourn themselves de die in diem, to such house or houses there as they shall see fit, until they have fully adjusted and finished the same, and also that they draw orders on the publick Receiver for the time being, for the full value of the aforesaid goods and other necessities, after they have adjusted the accounts of the same, payable to the several owners thereof; and the publick Receiver is hereby required to pay the same out of the publick treasury.

In case of suits
at law brought.

XXXII. *And be it further enacted* by the authority aforesaid, That if any action or suit shall be brought against any person or persons for any act, matter or thing, to be acted or done pursuant to this Act, that it shall be lawful to and for all and every such person or persons aforesaid, to plead thereunto the general issue, that he or they are not guilty, and to

give such special matter in evidence to the jury which shall try the same, which special matter being pleaded, shall be a good and sufficient matter in law to discharge the said defendant or defendants of the trespass or other matter laid to his or their charge; and if the verdict shall pass with the said defendant or defendants in any such action, or the plaintiff or plaintiffs thereon become nonsuited or suffer any discontinuation thereof, that in every such case, the Judge before whom such matter shall be tried shall, by force and virtue of this Act, allow unto the defendant or defendants his or their double costs which he or they shall have sustained by reason of their wrongful vexation in defence of the action; for which the said defendants shall have the like remedy, as in any other cases where costs by law are given to the defendant.

A. D. 1716.

XXXIII. *And be it further enacted*, by the authority aforesaid, That this Act shall continue in force to the twentieth day of November next, which shall be in the year of our Lord one thousand seven hundred and sixteen, and no longer.

Limitation.

*Read three times, and ratified in open Assembly,
March 24th, Anno Dom. 1715-6.*

CHARLES CRAVEN,
CHARLES HART,
GEORGE LOGAN,
NICHOLAS TROTT,
ROBERT DANIELL,
SAMUEL EVELEIGH.

Expired.

AN ACT TO APPROPRIATE THE YAMOSEE LANDS TO THE USE OF SUCH PERSONS AS SHALL COME INTO AND SETTLE THEMSELVES IN THIS PROVINCE, AND TO SUCH OTHER PERSONS QUALIFIED AS THEREIN MENTIONED.

No. 357.

WHEREAS, by one Act of Assembly of this Province, entitled, An Act to limit the bounds of the Yamosee Settlement, to prevent persons from disturbing them with their stocks, and to remove such as are settled within the limitation hereafter mentioned, Ratified in open Assembly the twenty-eighth day of November, one thousand seven hundred and seven, by which Act the true and absolute Lords and Proprietors of this Province did give and grant unto the said Yamosee Indians all that parcel or tract of land to the southward on the main, butting and bounding as followeth, that is to say, to the north-east on Combahee river, to the south-east by the marshes and islands on Coosaw and Port Royal rivers, to the south-west by the Savano river, and to the northwest by a direct line drawn from Combahee river to the head of the Savano river; and also one Island, lying between the Pocosabo town and the north branch of Port Royal river, commonly called Coosaw Hatchee, lately inhabited by the said Yamosee Indians, should be to and for their use only. And whereas the said Yamosee Indians, by reason of this present war that they are now engaged in against us, have deserted the said lands, and are gone over to the French and Spaniards, and other places, by which means the said lands are become vacant and unsettled; and whereas the well peopling of any country not

Preamble.

Boundaries of
the Yamosee
lands.

A. D. 1716.

only enriches it in a time of peace, but also strengthens it in a time of war; and whereas it hath been a great neglect in the settling of this Province, and granting lands in the same, that persons have been permitted to take up and possess quantities of land without any restriction or limitation, and without being obliged to make any settlements upon the same, whereby the settlements have been at that great distance one from another, that in case of an attack made upon the inhabitants, they have not been able with any convenient expedition to meet together for the mutual assistance of one another, as it hath been found by experience in this present war with the Indians; and whereas the Yamosées having forsaken the said large tract of land, it is highly reasonable that the same lands should be applied to the publick benefit of this Province; and for the better settling of the same, by appropriating the said lands to and for the encouraging of all such new comers as will come and settle upon the same, on the terms and conditions hereafter mentioned;

Boundary of
land appropri-
ated to settlers
from foreign
parts.

I. *Be it therefore enacted* by his Excellency John Lord Cartaret, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, and it is hereby enacted by the authority of the same, That all that tract of land on the main, bounded to the north-east by Combahee river, to the south-east by the marshes and islands on Coosaw and Port Royal rivers, to the south-west by the Savano river, and to the north-west by a direct line drawn from the head of Combahee river to the present garrison on the Savano river, commonly called Fort Moore, be appropriated and is hereby appropriated and set apart for the use and encouragement of all such male persons of the age of sixteen years and upwards (being Protestants) as shall after the ratification of this Act transport themselves, or be transported (being free men) into this Province, from Great Britain, Ireland, or any of his Majesty's plantations in America, and settle in the same, under such rules, restrictions and limitations as is hereafter in this Act directed.

Who may take
up 300 acres of
river land,

II. *And be it further enacted*, by the authority aforesaid, That every person or persons qualified as aforesaid, that shall come into this Province, with an intent to settle in the same, shall have liberty, and he is hereby granted the liberty, to take up and possess three hundred acres of the said land, if on any river or navigable creek, within the limits or bounds of the same, and no more.

and 400 acres
of back land.

III. And forasmuch as there is great quantities of the said lands, lying backward or inland, from the several rivers and navigable creeks therein, of which land many persons may be inclined to have and take up; *Be it further enacted* by the authority aforesaid, That all and every such person or persons that shall come into this Province with an intent to settle, as aforesaid, and shall be desirous to have and take up any such back lands, as is before mentioned, shall have liberty, and he is hereby granted the liberty of taking up and possessing four hundred acres of the said back land, and no more.

These grants
confined to
actual settlers.

IV. And whereas the intent and design of this Act is, that no person shall be permitted to take up too large quantities of land, that so the settlements may be near and ready to each others assistance; and therefore, to prevent persons taking up lands in other persons names, to be reconveyed to them, that so they may be possessed of larger quantities of land than is allowed of by this Act, and so defeat the true intent and meaning thereof; *Be it therefore enacted* by the authority aforesaid, That any person that shall take up any quantity of land in the settlement aforesaid, not exceed-

ing the quantities limited as aforesaid, shall be obliged, and he is hereby obliged to live upon and reside continually upon the same; and in case he, or some other white person capable of bearing arms, shall not be resident upon the same the full space of ten months in the year, tho' he shall have occasion to take a voyage beyond the seas, upon his lawful occasions, yet for any such non-residence, the person who owns such quantity of lands, so offending, shall forfeit his said lands, with all the buildings and improvements upon the same, if during his absence on such voyage, and till his return to his said lands, some white man, capable of bearing arms, do not live thereupon; and the grant given for the same shall be null and void, and it shall be lawful for any other person, qualified as in this Act is before directed (but under the same restrictions and limitations as are herein mentioned) to take up the same.

A. D. 1716.

V. *And be it further enacted*, by the authority aforesaid, That if any person shall take up any of the said lands, pursuant to the directions of this Act, that such person shall not at any time within seven years have power to sell, or any other ways convey his land so taken up, or mortgage or lease the same to any other person that hath land within the said settlement, or in any other part of this Province, but only to some new comer, qualified for taking up lands in the said settlement, according to the directions of this Act; and any such conveyance, or sale of lands, or mortgage, or lease of the same, contrary to the true intent and design of this Act, shall to all intents and purposes be null and void in law, and the person that maketh such sale or conveyance, mortgage or lease, contrary to the intent of this Act, shall for such his offence forfeit his lands so conveyed, mortgaged or leased, with all and every the improvements thereon, and the same to be granted to any other person or persons that will take the whole or any part of the same, as is before directed in the case of non-residence, and not inhabiting upon the same.

Not to be conveyed away before 7 years are expired.

VI. And for preventing all disputes which may arise, who shall be accounted new comers, according to the true intent and design of this Act; *Be it further enacted* by the authority aforesaid, and it is hereby enacted and declared, That he shall be accounted and esteemed a new comer, and entituled to all the benefits of this Act, who shall arrive in this Province at any time after the ratification of this Act, in order to make a settlement in the same, and who hath never before been a resident in this Province: Provided nevertheless, and be it further enacted by the authority aforesaid, that any person that before hath been or now is resident in this Province, and that is not possessed of any land in the same, shall have liberty to take up part of the said lands, (provided the same be run out or surveyed in that part or tract of land commonly called or known by the name of Huspau Neck, lying between the Whale branch and Combahee river, and in or upon no other part of the said Yamosee land whatsoever; and that the person or persons who shall so take up the same, do settle the said land not sooner than three years after the ratification of this Act, on penalty of the forfeiture of the same, and its reverting again to the right honourable the Lords Proprietors, and the same to be taken up by any other person on the terms aforesaid,) as if he was a new comer, but under the same limitations as aforesaid, and likewise be entituled to all the benefits of the new comers given in this Act. Provided nevertheless, that at the time of his taking out a warrant for any part of the said land, he take the following oath (and not otherwise) before the Secretary of this Province or his deputy for the time being, who is hereby required and empowered to administer the same, in these words, viz: You, A. B. do sincerely swear, that since the ratification of this Act, you neither have had, nor are

Who are new comers.

Persons who are forbidden to take up this land till after three years.

Oath.

A. D. 1716.

now possessed of any manner of right, title, interest or claim whatsoever, in or to any part, parcel or tract of land in any place wheresoever within this Province: So help you God.

What single women may take up land.

VII. *And be it further enacted* by the authority aforesaid, That if any single woman is minded to come into this Province, and settle on any part of the Yamosee land aforesaid, and shall bring in with her one or more white male servants, capable of bearing arms, that then and in such case, she shall to all intents and purposes, be thereby rendered capable of taking up to and for her use, her heirs and assigns, the same quantity of said lands as is allowed to white men who are accounted new comers by this Act, but under the same restrictions and limitations as by the same Act all such white men are liable and obliged to; any thing herein contained to the contrary thereof in any wise notwithstanding.

Land warrants to issue to new comers.

VIII. *And be it further enacted* by the authority aforesaid, That for an encouragement to persons to come over and take up lands in the said settlement, that any person who is entituled to the same shall make his; her, or their application to the Secretary of this Province, or his lawful deputy, and making it appear upon oath, before him, that he or she is such a new comer as is entituled to the benefit of this Act, that the Secretary may and is hereby required and ordered to give him or her a warrant directed to the Surveyor General, to run out so much land as is allotted by this Act to be run out in the said settlement, and no more; and the Surveyor General, or any of his lawful deputies, is and are hereby authorized and required, with all due expedition, to run out the same, and make a platt thereof, and return the same into the Secretary's office, and the Secretary with all due expedition shall fix a grant to the same, and procure the hands of the Governour and Council, or such other persons as are or may be authorized by the true and absolute Lords and Proprietors to grant lands, and fix the publick seal to the same, in order to make the said grant perfect and authentick.

Office fees to be paid by the public receiver

IX. *And whereas*, the persons for whom this encouragement is given to settle the said tract of land, may generally be supposed to be persons poor and indigent; therefore, in order to make the purchasing and obtaining the said lands as easy to them as may be, *Be it further enacted* by the authority aforesaid, That the lawful fees due to the Secretary and Governour for the warrant and grant, and the lawful fees due to the Surveyor for running out and making a platt of the same, shall be paid for by the publick Receiver of this Province, out of the publick treasury, and a receipt from the person that received the platt from the Surveyor, being by the said Surveyor produced and given to the publick Receiver, shall be a sufficient warrant to the publick Receiver to pay the fees due to the Surveyor, he giving a receipt for the same; and a receipt from the person that received the grant from the Secretary, being by the said Secretary produced and given to the publick Receiver, shall be a sufficient warrant to the publick Receiver to pay such legal fees as is due to the Secretary and Governour for the said grant, the said Secretary giving him a receipt for the same; all which receipts the Secretary and publick Receiver shall keep by them, in order to be laid before the House of Commons, when thereunto required, and the publick Receiver is hereby ordered and directed to keep in a book, by itself, an account of all such sums of money by him paid for the fees due to the Secretary's office, and also the Surveyor General's office, for lands taken up pursuant to the directions of this Act.

Residents must pay the fees.

X. *And be it further enacted* by the authority aforesaid, That nothing in this Act shall extend, or be any ways construed to extend, to excuse or exempt any person who is a resident in this Province at the time of the

ratification of this Act, from paying the Secretary's, Surveyor's, or any other publick officer's fees, for and on account of taking up or running out any of the said land, pursuant to the directions of this Act, but that he or they shall pay all the fees justly due for the same; any thing in this Act to the contrary in any wise notwithstanding.

A.D. 1716.

XI. *And be it further enacted* by the authority aforesaid, That the person or persons taking out such grant, the quit rents at the rate of twelve pence the hundred acres to be paid yearly, shall commence and become due, and be paid according to the usual custom of payment of quit rents within this Province; but for the purchase money of the said land, which is three pounds each hundred acres, they shall be allowed four years time before they shall be obliged to pay the same, but shall then be obliged to pay the same within six months after the expiration of the said four years, or else the Lords Proprietors' Receiver General shall, in the name of the Lords Proprietors, have liberty to bring an action of debt for the same. And this favour being allowed the persons that shall settle the said tract of land, in consideration of their poverty, and for better settling the Lords Proprietors province, Therefore, it is the humble request and desire of this General Assembly to the Lord Palatine and the rest of the Lords Proprietors of this Province, that their Lordships, for the consideration aforesaid, will acquiesce in, and approve of this part of this Act, and accept of their purchase money, to be paid them as before directed by this Act, for the lands so taken up in the said settlement, pursuant to the directions of this Act.

Quit-rent of 12 pence per 100 acres, when to commence.

XII. And for a further encouragement to all and every person and persons who shall be new comers, and qualified as such to take up any of the lands to be disposed of and granted to him, her or them, according to the directions of this Act, *Be it further enacted* by the authority aforesaid, That every such person respectively shall for the time and space of four years, from and after the time of his or her arrival in this Province, be exempted from paying any publick taxes whatsoever.

These lands to be exempt from taxes for four years.

XIII. *And be it further enacted* by the authority aforesaid, That in case the Secretary of this Province for the time being do refuse or neglect to procure and deliver out a warrant to run out land in the said settlement, according to the directions of this Act, and afterwards, as far as in him lies, to perfect and deliver out a grant for the same, to a person qualified by this Act to demand the same, or shall give out any warrant or grant for any lands in the said settlement to any person not qualified to demand the same, that for every such offence he shall forfeit the sum of twenty pounds, to be recovered as hereafter is directed by this Act.

Penalty on Secretary refusing a warrant.

XIV. *And be it further enacted* by the authority aforesaid, That in case any surveyor shall wilfully survey more lands to any person than is allowed by this Act, or shall otherwise wilfully and designedly make any breach or neglect of his duty required by this Act, that for every such offence he shall forfeit the sum of fifty pounds, to be recovered as hereafter is directed by this Act.

Penalty of Surveyor's breach of duty.

XV. *And be it further enacted* by the authority aforesaid, That any grants made or to be made for any lands within the bounds or limits aforesaid, not made pursuant to the directions and authorities of this Act, are hereby enacted and declared to be null and void, to all intents and purposes void, whatsoever, as if such grants had never been made.

Grants not procured in conformity with this Act, to be void.

XVI. *Provided* nevertheless, and be it further enacted by the authority aforesaid, That whereas, by the above recited Act to limit the bounds of the Yamosee settlement, &c. amongst other things it is enacted, that in case the said Yamosees remove from the aforesaid limits of their own

Former titles to be re-assumed.

A. D. 1716.

accord, or by order of the Government, so that those persons may resettle their respective tracts of land, without disturbance to the Yamosees, that then those persons having, before the ratification of the said Act, legal right and title to the aforesaid tract or tracts of land, shall have power, and are hereby empowered, to reassume their respective tracts of land upon their former titles, they reimbursing the publick those several sums of money they were allowed by the said Act; any thing in the said Act to the contrary in any wise notwithstanding: The said recited paragraph is hereby declared to be of full force and effect, as if this Act had never been made; any thing in this Act to the contrary in any wise notwithstanding.

All enactments
repugnant to
this Act, are
void.

XVII. *And be it further enacted* by the authority aforesaid, That any paragraph, clause, or sentence whatsoever, in the above recited Act to limit the bounds of the Yamosee settlement, &c. which are contrary to this Act, or any way repugnant to the same, are hereby declared repealed, and made null and void in law, as fully to all intents and purposes whatsoever, as if the same had been by express words recited in this Act, and declared repealed by the same.

Fines and pen-
alties how to be
recovered.

XVIII. *And be it further enacted* by the authority aforesaid, That the several fines and forfeitures contained in this Act, shall be recovered by action of debt, bill, plaint or information, in any court of record in this Province, wherein no essoign, protection, injunction, or wager of law, shall be allowed or admitted of; one half to him or them that will inform and sue for the same, and the other to the publick Receiver, for the use of the publick.

*Read three times and ratified in open Assembly,
the 13th day of June, 1716.*

ROBERT DANIELL,
THOMAS SMITH,
CHARLES HART,
GEORGE LOGAN,
NICHOLAS TROTT,
SAMUEL EVELEIGH.

NOTE.—Repealed by the Lords Proprietors, July 22, 1718.

No. 358. *AN ACT TO ENCOURAGE THE IMPORTATION OF WHITE SERVANTS INTO THIS PROVINCE. (Much torn and defaced.)*

Preamble.

WHEREAS sad experience hath taught us that the small number of white inhabitants of this Province, is not sufficient to defend the same even against our Indian enemies, and whereas the numbers of slaves are daily increasing in this Province, which may likewise endanger the safety thereof, if speedy care be not taken to encourage the importation of white servants,

I. *Be it therefore enacted* by his Excellency John Lord Cartaret, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown, for the South-west part of this Province, That every merchant, owner or master of any ship or vessel, or any other person which shall import any white male servants into this Province above sixteen years of age, and under thirty, and qual-

ified as hereafter is directed in this Act, and the same shall deliver to the Public Receiver, shall receive and be paid by the said Receiver, twenty five pounds, current money of this Province, for every servant so delivered, and for every boy of twelve years, and under sixteen, imported and delivered to the Receiver, as aforesaid, twenty two pounds, current money of this Province; provided that every such servant, as aforesaid, hath not less than four years to serve after his arrival in this Province, and every boy not less than seven years, and if any person shall deliver to the Receiver, any servant or boy, as aforesaid, which hath less time to serve than the respective times before appointed, the Receiver shall pay such persons proportionably to the rates and times aforesaid, for so long time as such servant or boy hath to serve; and no person which shall deliver such servant or boy to the Receiver, which hath longer time to serve than the respective times of four and seven years aforesaid, shall remit any of the time the said servant or boy ought bona fide, whether by contract or custom, to have served his said master or mistress, and every such servant or boy so delivered to the Receiver, shall serve so long as he ought to have served to his said master or mistress.

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Bounty of £25
for each white
servant.Period of
service.

II. And for a further encouragement to all such persons as shall first import servants to this Province, *Be it further enacted*, That for all such servants as shall be imported within two years after the ratification of this Act, the importer shall receive an addition of five pounds per head more than is above specified in this Act, provided they be also qualified as is hereafter directed.

Additional
bounty.

IV. *And be it further enacted* by the authority aforesaid, That no such servant or boy shall serve longer than such time as they have indented and contracted for, and that every servant above sixteen years old, which shall be brought into this Province, without contract or indenture, shall serve five years, and no longer, and all under sixteen, to the years of one and twenty. Provided always, that the Public Receiver shall not be obliged to take any servant who is not healthy and sound, and well in his limbs, but that the person who imports the said servant shall be obliged to take him for his own use, any thing in this Act to the contrary notwithstanding.

Minors to serve
till of age.

V. *And whereas* there hath been imported into this Province, several native Irish servants that are Papists, and persons taken from Newgate and other prisons, convicted of capital crimes, to the great prejudice and detriment of this Province, *Be it therefore enacted* by the authority aforesaid, That no person by this Act, required to purchase white servants, shall be obliged to purchase any Irish servants, or persons convicted in England, or elsewhere, of capital crimes, nor is the Receiver obliged to take the same.

Convicts not to
be purchased
under authority
of this Act.

VII. And in order to prevent the imposing upon this Province persons of lewd and profligate lives, *Be it further enacted*, That all merchants or masters of vessels, or others, shall upon their oaths, declare that to the best of their knowledge, none of the servants by them imported, be either what is commonly called native Irish, or persons of known scandalous characters, or Roman Catholics, and if any merchant or other person, either in England or any other place abroad, shall ship any servants to this Province, he shall be obliged to send a certificate under the hand of the proper Magistrate, that such persons or servants, are Protestants, and be not reputed to be, or have not been legally convicted of any notorious crime; and with such a certificate, Irish servants, being Protestants, may

A. D. 1716. be lawfully imported here, and receive the benefit of this Act, any thing therein contained to the contrary notwithstanding.

Planters own-
ing 10 slaves to
take one white
servant.

VIII. *And be it further enacted*, That every owner of every plantation to which doth belong ten slaves, young or old, and all persons possessed of the like number of slaves, shall take from the Receiver one servant, when it shall happen to be his lot to have one, and shall pay to the Receiver so much money for the said servant, as the Receiver gave to the person from whom he received the same, and the owner of every plantation to which doth belong twenty slaves, as aforesaid, shall, when it shall be his lot, take two servants, as aforesaid, and every master of every plantation proportionably for every ten slaves.

In what cases
white servants
allotted may be
returned.

IX. *And be it further enacted*, by the authority aforesaid, That whereas several persons inhabitants of this Province, may themselves for their own use, have sent abroad for some male white servants, and before the arrival of the said servants here, may by lot have a white servant, or more in proportion to their number of slaves, imposed upon them by the Public Receiver, by virtue of this Act, at the arrival of the said white servants which he or she may have sent for, for their own use, liberty shall be granted them of returning to the Public Receiver such servant or servants as were before allotted to them, allowing the Public Receiver for so many months service they may have received from them, and the Public Receiver is hereby ordered to receive the said servant or servants. Provided, and it is hereby intended, that every male servant contracted for four years, and not under, shall to all intents and purposes be deemed as good, and supply the room of such as shall be bought from on board of any vessel, or by lot should be appointed him, as aforesaid.

* * * * *

Proceedings
against persons
refusing to pay
for servants
allotted to them

XII. *And be it further enacted* by the authority aforesaid, That if any person shall refuse or neglect to pay down the money immediately to the Public Receiver, for such servant or servants as is, or are by lot appointed for them, That then and in such case, it shall be lawful for the Public Receiver, and he is hereby strictly required to apply himself to the chief justice of this Province, who is hereby empowered and required to issue out execution immediately, at the said Receiver's request, on the goods and chattels of the person so refusing to pay the said money, for such servant or servants as aforesaid, to the full value of forty pounds, current money of this Province, to be paid to the Public Receiver, for the use of the Public, and the said execution so granted shall be good, valid and effectual to all intents and purposes in the law, without any other proceedings thereon. Provided always, that all goods whatsoever, taken and seized by virtue of this Act, by the proper officer who serves and levies any such execution, shall by him be sold by public out-cry, after fifteen days notice of such sale being given to the owner thereof, and the overplus, if any, after reasonable charges deducted in selling the said goods, shall be returned to the owner or owners of the same.

In case of the
servant's death

XIII. *And be it further enacted* by the authority aforesaid, That whoever shall happen to lose his servant by death, or otherwise, after he has paid for the same, That then and in such case, no other servant shall be imposed upon him in the room of that servant so lost, until the whole country be first served, according to the true intent and meaning of this Act.

Commissioners
dying or
leaving the
Province.

XIV. *And be it further enacted*, by the authority aforesaid, That if any of the Commissioners aforesaid, should die or depart this Province, the surviving and residing Commissioner or Commissioners with the Receiver, shall appoint another under their hands and seals, in the room of him or

them deceased or departed this Province, and him or them so appointed as aforesaid, shall to all intents and purposes be A. D. 1716.

XVI. *And be it further enacted* by the authority aforesaid, That if any action or suit shall be brought against any person or persons for any act, matter, or thing to be acted or done, pursuant to this Act, That it shall be lawful to and for all and every such person or persons aforesaid, to plead thereunto the general issue, that he or they are not guilty, and to give such special matter in evidence to the jury, which shall try the same, which special matter being pleaded, shall be a good and sufficient matter in law to discharge the said Defendant or Defendants of the trespass or other matter laid to his or their charge, and if the verdict shall pass with the said Defendant or Defendants, in any such action, or the Plaintiff or Plaintiffs thereon become non-suited, or suffer any discontinuation thereof, that in every such case, the Judge before whom such matter shall be tried, shall by force and virtue of this Act, allow unto the Defendant or Defendants, his or their double costs, which he or they shall have sustained by reason of their wrongful vexation in defence of the action, for which the said Defendant or Defendants shall have the like remedy as in any other cases where costs by law are given to the Defendant.

XVII. *And be it further enacted*, That this Act, and every thing therein contained, shall continue in full force for four years, and from thence to the first session of the next General Assembly, and no longer.

*Read three times and ratified in open Assembly,
this 30th day of June, 1716.*

NICHOLAS TROTT,
SAM. EVELEIGH.
CHARLES HART,
GEORGE LOGAN,
ROBERT DANIELL,
THOMAS SMITH.

NOTE.—Repealed by Section 6 of Act of June 29, 1717.

AN ACT FOR LAYING AN IMPOSITION ON LIQUORS, GOODS AND MERCHANDIZES, IMPORTED INTO AND EXPORTED OUT OF THIS PROVINCE, FOR THE RAISING OF A FUND OF MONEY TOWARDS THE DEFRAYING THE PUBLICK CHARGES AND EXPENCES OF THE GOVERNMENT.

No. 359.

(The original of this Act is not numbered under any class. On examination, I regard this as the number it ought to have had.)

I. FOR the more speedy and effectual doing the same, *Be it enacted*, by his Excellency John Lord Carteret, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown, for the South and West part of this Province, and by the authority of the same, That three months after the ratification hereof, and no sooner, all and every the rates and duties hereinafter named, shall be laid and imposed, and be paid and answered at and upon the importation of any liquors, goods and merchandize hereafter specified and enumerated; that is to say, upon all Madera Wine of the growth of the Island

A. D. 1716.

of Madera, three pounds per pipe; upon Faial Wine, or any wine of the growth of the western islands, six pounds per pipe; upon all other Wines imported in bottles or flasks, commonly called quart bottles or flasks, five shillings per dozen; and upon every gallon of such Wines imported in casks, fifteen pence per gallon, and so in proportion for any greater or less quantity imported as aforesaid; upon every gallon of Rum, three pence; and for bottles commonly called quart bottles of Syder, Beer, Ale, Stout, Mum, or other mault drink, three shillings per dozen; and upon all Syder, Beer and Ale in casks, (quantity thirty-two gallons) imported from Europe, ten shillings per cask, and so in proportion for a greater or less quantity; and upon all Beer imported from any of the Northern Colonies of America in casks, containing thirty-two gallons, five shillings, and so in proportion for a greater or less quantity; and upon all Syder imported from any of the said Colonies, in casks containing thirty-two gallons, three shillings and six pence, and so in proportion for a greater or less quantity; and upon all Molasses, three half pence per gallon; upon all brown or Museovado Sugar, three shillings for every hundred weight; upon all clayed sugar imported, five shillings per hundred; upon all refined loaf sugar, two pence per pound; upon every quart bottle of Brandy, Rosa Solis and all other spirits whatsoever, (Rum excepted,) four pence per quart bottle, and if they are imported in casks, then to pay fifteen pence per gallon; upon every hundred weight of Cocoa, ten shillings; upon every pound of Chocolat made up, three pence per pound; upon every gallon of Limejuice, two pence; for every hundred neat weight of Flower imported, fifteen pence; for every hundred neat weight of white basket bread, two shillings and six pence; for every hundred neat weight of brown basket bread, fifteen pence; for every hundred neat weight of Tobacco imported, fifteen shillings, and proportionable for a greater or less quantity; for every hundred neat weight of salt Fish, three shillings; upon every barrel of Herrings or Mackarel, six shillings; upon every ton of Logwood imported, ten shillings; upon every ton of Brazillato wood imported, five shilling; upon all other sorts of dying wood per ton, five shillings; and all prize Wines that shall be imported, to pay duty as European wine; and upon scraped Ginger, ten shillings per hundred weight; upon scalded Ginger five shillings per hundred weight; and upon Butter, five shillings per hundred weight; upon Cheese, three shillings per hundred weight; and upon hams of Bacon, three shillings per hundred weight; upon fitches of Bacon, two shillings per hundred weight; and upon every barrel of Beef, three shillings; upon every barrel of Pork, five shillings; and upon every barrel of Cramberrys, two shillings; upon every hundred weight of Candles, five shillings; upon every barrel of train Oil, five shillings; upon every pipe of Vinegar, twenty shillings, and so proportionably for a greater or less quantity; and upon every Indian slave exported, twenty shillings per head; and on every hundred feet of Cedar Timber exported, being of the growth of this government, which is above six inches square, twenty shillings; upon tanned leather, one penny for every pound weight; upon neat leather, three shillings for every hide; upon every tanned calf skin, one shilling; upon every tanned deer skin, one shilling; upon every raw hide, five shillings.

Goods not mentioned, 5 per cent.

II. *And be it further enacted* by the authority aforesaid, That a duty of five pounds for every hundred pounds value, be and is hereby laid and imposed, to be paid by the importer, on all goods and merchandizes of any sort or quality soever, not in this Act particularly specified and rated, which at any time or times hereafter, shall be imported into this part of this Province, (Salt only excepted) the said duty of five pounds per cent.

to be valued and rated on the prime costs, from the place where such goods were last brought, on the invoice produced by the importer to the Comptroller, and the said importer shall take his corporal oath before the said Comptroller, that the invoice which he produces is not less than the true and real costs of the said goods, at the last place of exportation, to to the best of his knowledge.

A D. 1716.

III. *And be it further enacted* by the authority aforesaid, That immediately after the ratification of this Act, a duty of three pounds per head be laid and imposed on every negro slave (children under ten years old excepted) imported into this Province from Africa, or any other part. Provided also, and be it further enacted, that any person or persons whatsoever that shall transport themselves, with their negro slaves, into this part of this Province, with an intent to settle here, in such case, all such person or persons whatsoever shall enter the number of his or their slave or slaves so imported, with the Comptroller, who at the time of such entry is hereby required and empowered to administer an oath to the importers or owners thereof, that in case he or they so importing any negro or negroes, have not imported them with intent or design to sell or dispose of any of them, and further make oath, that if within twelve months after his or their arrival into this part of this Province, he, she or they shall make sale of the said slaves, or any of them, and not otherwise, he, she or they shall and will pay to the Public Receiver, the full duties of all such slaves so sold, as is above directed by this Act.

Negroes imported.

Negroes to be entered.

IV. *And be it further enacted* by the authority aforesaid, That all negro slaves (except children not exceeding ten years of age) which shall three months after the ratification of this Act, be imported into this Province, that have been and resided in any of the Colonies in America, the term and space of five months, shall pay unto the Public Receiver, as a duty, the sum of thirty pounds, current money of this Province, and all persons importing any slaves into this Province, not producing a certificate to the Comptroller, attested by the proper persons, setting forth the name of the ship they came in, and the time they were imported into that port, whence they are brought hither, shall be liable to pay for every such slave or slaves (children not exceeding ten years of age excepted) so imported, the above duty of thirty pounds, current money, per head. Provided nevertheless, that such persons not producing a certificate as above directed, shall have the liberty of six months to obtain such a certificate, and if he or they shall, within the said six months, produce to the Comptroller of the customs of this Province, an instrument attested by any Justice of the Peace of that port, whence the said slave or slaves were imported here, certifying the time of the arrival of the said slave or slaves, the time of their being and residing in the said place, not exceeding five months, he or they shall pay no more duties for the said slaves, than is by this Act laid and imposed upon slaves imported directly from Africa.

Negroes from any of the Colonies £30.

Certificate required.

Six months allowed.

V. *And whereas* differences may arise concerning the age of negro children imported, for the deciding thereof, *Be it enacted* by the authority aforesaid, That any one Justice of the Peace is hereby empowered to judge such differences, and the age of such negro children, by him certified to the Comptroller, shall be deemed the age of such negro child, and the importer shall pay the duty accordingly.

A Justice of Peace may determine the age of a negro.

VI. *And be it further enacted* by the authority aforesaid, That any person who shall import into this Province any wines from the Island of Madera, shall at the time of such importation, produce a certificate to the Comptroller from the lader or shipper of such wines, on board the ship or vessel importing the same, attested under the hand and seal of the Consul.

Madera Wine to be accompanied with a certificate.

A. D. 1716.

of the aforesaid Island, that all the wines there laden, are of the growth or product of the said Island, otherwise the said wines shall be taken and deemed as wines of the growth of the Western Islands, and pay the duty accordingly.

Contents of the
certificate.

VII. And for the more effectual prevention of any wines of the growth of Faial, or any of the Western Islands, to be imported into this Province from New England, or any other of His Majesties plantations in America, and uttered or sold as wines of the growth of Madera, *Be it enacted* by the authority aforesaid, That the master of any such ship or vessel, shall produce a certificate from the person who shall ship the said wines, that the wines so shipped, are of the growth and product of the Island of Madera, and that the said wines have not in any manner of ways been adulterated since they were landed in the said place, which certificate being under the oath of the said shipper, shall be produced at the time of such importation, and shall be attested under the hand and seal of the Collector or Naval Officer in the said place where such wines are shipped, and if consigned to the master, or to a merchant coming in the said ship or vessel, or to any merchant living and abiding in this Province, for disposing of the said wines, the person who enters the said wines, shall, besides such certificate, before the landing of such wines, take the following oath before the Comptroller, who is hereby empowered to administer the same. I, A. B., do swear, that the wines which I now import have not been any ways adulterated since they came into my custody, or on board my ship or vessel, and to the best of my knowledge they are of the growth of the Island of Madera, so help me God; and all persons importing any wines, which shall refuse to take the said oath, the wines by him or them so imported, shall be deemed as wines of the Western Islands, and pay duties accordingly.

The master's
oath for Madera
Wines.

A general
entry or mani-
fest to be given
in upon oath, of
all goods &c.
on board.

VIII. *And be it further enacted* by the authority aforesaid, That every master of any ship or vessel, merchant or others, importing any of the aforesaid goods, on which an imposition is laid, shall before he or they break bulk, make a general entry or manifest of his lading, which signed by him, he shall deliver to the Comptroller upon oath, containing the marks and numbers of all such goods imported, and from whence they came, with the name of the vessel and master importing the same, and every merchant or others importing any the aforesaid goods, shall before the landing of the same, three entries by him signed, make, containing the marks and numbers, with the name of the master and the vessel importing the same, to the Comptroller deliver upon oath as aforesaid, one of which said entries shall by the Comptroller be filed, and entered in a book by him kept for that purpose, the two other entries signed by the said Comptroller, shall be delivered to the Publick Receiver, who shall sign and file one of them, and shall also indorse the third entry, certifieing that the several duties therein contained are paid, and then the Public Receiver is to deliver or send the said entry to one of the waiters hereinafter mentioned and appointed, as a permit for landing the said goods, and the said waiter and waiters are to give notice thereof to the master of any vessel therein concerned, and the said waiters are to keep a regular file of all such entries and permits so transmitted to them by the Publick Receiver, to be perused by a committee of the Commons House of Assembly, upon the examining and auditing the publick accounts.

Duty on goods
exported.

IX. And for the better collecting the duty of goods exported, *Be it enacted* by the authority aforesaid, That every person whatsoever intending to ship or export cedar timber, (except as before is excepted) skins, furs, or Indian slaves, shall before the shipping of the same, three entries by him signed, make, containing the marks, number and contents, with

the name of the master and vessel, with the place they are bound to, to the Comptroller deliver, on his or their corporal oath, who is hereby empowered to give the same, that the said entries is an exact account of all such goods intended to be shipped as aforesaid, and the said entries are to be filed, delivered and transmitted in such manner and form as is above directed for entries of goods imported; and the master or owner of every vessel, on which such goods are exported, shall upon his oath, a true and general report of all goods shipt on board his said vessel to the Receiver and Comptroller return, before he departs this port, or have a permit for the same, and the powder Receiver is hereby required and commanded not to permit any vessel to depart this port, until the Publick Receiver shall first grant to him a permit for the same.

A. D. 1716.

X. And to the end that the said rates and duties laid and imposed on liquors, goods and merchandize may be the better and more speedily collected by the Public Receiver, *Be it enacted* by the authority aforesaid, That from and after the Ratification of this Act, all sums of money payable to the Publick Receiver for any goods, liquors and merchandize, exported out of, or imported into this part of the said Province, shall be paid by the exporter for any skins, furs, Indian slaves or cedar timber, before the same is put on board of any vessel whatsoever, in order to be exported out of this Province, and by the importer of any liquors, goods and merchandize, at and before the landing thereof, any law, custom or usage to the contrary thereof in any wise notwithstanding, and the Publick Receiver is hereby required not to deliver any permits for the shipping on board, or the landing on shore, any of the said skins, furs, liquors, goods and merchandize, for which such duties are due and payable, until the said duties are actually paid.

Duty to be paid
before put on
board or landed

XI. And for the more effectual preventing any frauds, *Be it further enacted* by the authority aforesaid, That the master of every ship or vessel importing any liquors, goods and merchandize, shall be liable to and shall pay the duty for such and so much thereof contained in his manifest as shall not be duly entered, and the duty paid for the same by the person or persons to whom such liquors, goods and merchandize are or shall be consigned, and it shall and may be lawful to and for the master of every ship or other vessel, to secure and detain in his hands, at the owners risque, all such wines, liquors, goods, wares and merchandize, imported in such ship or vessel, until he be certified by the waiters hereinafter mentioned, that the duty for the same is paid, and until he be repaid his necessary charges in securing the same, or such master may deliver such wines, liquors, goods, wares and merchandize as are not entered, unto the Publick Receiver or his order, who is hereby empowered and directed to receive and keep the same at the owner's risque, until the duties thereof, with the charges be paid, and then deliver such wines, liquors, wares and merchandize as the said master shall direct.

Masters of
vessels liable to
pay duty for
what is men-
tioned in their
manifest.

XII. *And be it further enacted*, by the authority aforesaid, That the Publick Receiver shall be, and hereby is empowered to sue the master of any ship or vessel for the duty for so much of the lading of wines, liquors, goods, wares or merchandize imported therein, according to the manifest by him to be given in as shall remain not entered, and the duty thereof not paid, and such master shall be and is hereby made liable to answer and make good all such duties, and where the goods, wares or merchandize are, such as the value thereof is not known, whereby the duty to be recovered of the master for the same cannot be ascertained, the owner or person to whom such goods, wares or merchandize are or shall be consigned, shall be summoned to appear as an evidence at the Court where suit for the

The Publick
Receiver may
sue the master
of a vessel for
the duties.

A. D. 1716.

duty thereof shall be brought, and be there required to make oath to the value of such goods, wares or merchandize.

Comptroller to enter into bond.

XIII. *And be it further enacted* by the authority aforesaid, That the Comptroller, that shall be from time to time nominated and appointed by a vote of the Commons House of Assembly, shall and is hereby required before his entry upon the execution of his said office, to enter into bond to the same persons to whom the Publick Receiver is by this Act become bound, in the sum of one thousand pounds, currant money, for his faithful execution of his said office, according to the tenor of this Act, and the said Comptroller shall be accountable to, and displaced by the House of Commons.

Masters of vessels to make oath that he has not landed part of the goods.

XIV. *And be it further enacted* by the authority aforesaid, That at such time as the master of any vessel doth make his general entry or manifest with the Comptroller, he shall make oath that he has not put on shore in the Port of Charlestown, or in any other port, river or creek, in this part of this Province, or put into any boat or vessel in order to the landing, any liquors or goods herein before rated, before his or their said general entry; and if any master of any ship or vessel, merchant, factor, mariner, or any other person whatsoever shall transgress in anything aforesaid, the said liquors and goods so put on shore, or put into any boat or vessel, in order to the landing, the same shall be forfeited and condemned in manner and form as is hereafter provided; and all manner of persons are hereby required to be aiding and assisting to the said Comptroller, Receiver, Waiters, his or their agents, informer, discoverer or seizer, in the actual seizing all liquors and goods unloaden or landed, contrary to the true intent and meaning of this Act, under the penalty of five pounds, to be levied and recovered, and disposed of to such uses as other forfeitures accruing by this Act are appointed and ordered.

Waiters, Guagers and Searchers to be appointed.

XV. *And be it further enacted* by the authority aforesaid, That two persons that shall be nominated by a vote of the Commons House of Assembly, shall be, and they are hereby appointed the Public Waiters, Guagers and Searchers, to execute all such powers and authorities as are given them by this Act, and shall daily give their attendance at the several wharfs and landing places in Charlestown, and at all such times and places as they shall be ordered or directed by the Public Receiver, and to follow and observe all such orders and instructions as shall be given them by the Public Receiver, and to be aiding and assisting to the said Public Receiver or his Deputy in all matters and things for or relating to the execution of this Act; and if the said Waiters or either of them shall neglect, refuse or make default in any of their duties enjoined them by this Act, then he or they making such default shall forfeit the sum of one hundred pounds, to be recovered and disposed of as is hereafter mentioned, and each of the said Waiters shall be paid and allowed the sum of forty pounds yearly, to be paid to each of them, at the end of every quarter, and so for a less or greater time, out of the publick Treasury, and the Public Receiver is hereby ordered to pay the same accordingly, and the said Waiters shall be accountable to and displaced by the Commons House of Assembly. Provided nevertheless, that during the interval between the times of sitting of the said House, the Public Receiver shall have power, and he is hereby empowered to displace both or either of the said Waiters, in case of neglect or refusing to do his or their duty, and to appoint a Waiter or Waiters to act in his or their room, who shall so continue to do until the next meeting of the Commons House of Assembly.

XVI. *And be it further enacted* by the authority aforesaid, That no master of any vessel shall unload or put on shore any liquors, goods or

merchandise, but in the day time between the sun-rising and sun-sitting, under the penalty of having all such goods, liquors and merchandizes seized and forfeited in manner and form as is hereafter provided. A. D. 1716.

XVII. *And whereas* several frauds and deceits are daily committed by the liberty taken by the masters, owners, supercargoes, or other persons belonging to any vessel, by selling goods on board by retail or wholesale; for the preventing thereof for the future, *Be it enacted* by the authority aforesaid, that from and after the ratification of this Act, no master, owner, supercargo, or any other person whatsoever, shall keep store or shop on board any vessel that shall come to this Province, or sell goods on board by retail or wholesale (salt excepted) under the penalty of having all such goods, liquors or merchandizes forfeited as aforesaid, and likewise over and above, the sum of fifty pounds current money, to be recovered as is hereafter directed and appointed.

All goods to be landed between sun-rising and sun-setting, if otherwise, forfeited.

No goods to be sold on board upon forfeiture of the same, and £50 penalty.

XVIII. And for preventing disputes that may arise between the importer of liquors and the Receiver or Waiters, *it is hereby declared*, That the importer shall, without gauging, be allowed ten per cent. for leakage, upon his invoice and entry made as aforesaid; but if the owner or importer shall suspect his leakage to be more than ten per cent. then the waiter or waiters shall gauge the same, and such leakage if entered with the Comptroller, and not otherwise, shall be allowed accordingly; and if at any time the waiter or waiters aforesaid, shall suspect any cask or hogshead holds out to a greater quantity than it is entered for, then they shall gauge or weigh the same, and if it holds out more as aforesaid, then the importer shall pay the surplusage of the duty, and for the gauging or weighing of each cask or hogshead, to the waiter, the sum of two shillings and six pence, and also make a new entry with the Comptroller for such overplus, as is before directed.

Ten per cent to be allowed for leakage.

XIX. *And be it further enacted* by the authority aforesaid, That if any skins, furs, Indian slaves, or cedar timber of the growth of this part of the Province, shall be put on board any ship or vessel before due entry made as aforesaid, all and every of the said furs, skins, Indian slaves, or cedar timber, so put on board as aforesaid, are hereby forfeited, and to be recovered and disposed of to such uses as other forfeitures accruing by this Act are appointed and ordered, except only such cedar as shall be on board for the use and reparation of the ship or vessel within this harbour, before she departs the same.

Penalty for loading any goods before entry.

XX. *And be it further enacted*, by the authority aforesaid, That it shall and may be lawful for the Receiver, Comptroller, or the Waiters, his or their agents, or informer, by virtue of a warrant from any Justice of the Peace, to that purpose first obtained, with one or more constables, to search all manner of houses, cellars, warehouses and shops, and the same may break open in the day-time, if the owners refuse to suffer them to enter, for all such liquors and goods as they or any of them shall be informed were carried there to be concealed, contrary to the true intent and meaning of this Act, and such liquors and goods so found, shall be forfeited and condemned in manner and form hereafter mentioned; provided the same is seized in three months after the offence is committed.

Search warrant may be had.

XXI. *And be it further enacted* by the authority aforesaid, That the publick Receiver, Comptroller, or Waiters, be enabled and authorized, and they are hereby enabled and authorized, to go and enter on board any vessel or vessels in the day-time, and make searches in all places and parts therein, and if need be, to break open any locks or chests, cask, bale, or other thing whatsoever, if denial be made of opening the same, and there seize and from thence bring on shore all skins, furs, or Indian slaves, and

Officers may board any vessel to make search.

A. D. 1716.

cedar timber, whereof due entry hath not been made; and the said Receiver or his deputy, the Comptroller or waiters, are hereby enabled and authorized to do all other lawful matters and things which may tend to secure the true payment of the duties payable on the same: and if any person or persons shall forcibly resist, or encourage or assist any person or persons to oppose and hinder the publick Receiver or his deputy, the Comptroller or waiters, in the due execution of this Act, then and in such case every such person for every such offence shall forfeit and pay the sum of one hundred pounds, to be recovered and disposed of in such manner and form as is herein after mentioned.

Duty to be repaid on goods exported in six months from importation, if duty first paid.

XXII. *And be it further enacted* by the authority aforesaid, That if any of the aforesaid liquors, goods and merchandize, or any negroes, Brazillato, logwood, or any other dyeing wood, be landed and afterwards exported within six months after the importation thereof, and not otherwise, the Receiver for the time being shall discompt or repay unto the owners or assigns three fourth parts of the duties of the said liquors and goods, according to the rates before mentioned, he or they so exporting having first made oath before the Receiver, who is hereby impowered to give the same, that the said liquors and goods were imported within the time limited and paid the duties aforesaid, with the name of the ship or vessel and master in which they were imported, that the Receiver shall then grant a permit to transport the same, the exporter first entering with the Comptroller the quantity of the said goods and merchandize to be exported.

Oath made to Receiver.

Publick Receiver to receive all duties.

XXIII. *And it is likewise enacted* by the authority aforesaid, That the person that shall be nominated by a vote of the House of Commons, pursuant to an Act entituled an Act declaring the right of the House of Commons for the time being to nominate the publick Receiver, &c., ratified the fifth day of July, Anno Dom. 1707, is hereby appointed publick Receiver of all dues, penalties and forfeitures arising or growing due or payable to the publick by this Act, and an account thereof shall fairly keep and render from time to time, as often as he shall be thereunto required by the Commons House of Assembly, as aforesaid, and shall be liable to all the oaths, bonds, restrictions, fines, forfeitures and penalties, and to have the salary as is directed by an Act of Assembly of this Province, entituled an Act for settling a salary on the publick Receiver, ratified in open Assembly the first day of March, 1710-11.

Alexander Parris appointed.

XXIV. *Whereas*, pursuant to the powers contained in an Act for settling a salary on the publick Receiver, ratified in open Assembly the first day of March, one thousand seven hundred and ten, Alexander Parris, Esq. was, in the month of June, one thousand seven hundred and twelve, appointed publick Receiver, and further appointed to continue to act as such, by one other Act, entituled An Act to raise the sum of £30,000 off and from the estates real and personal of the inhabitants of this Province, ratified in open Assembly the twenty-seventh day of August, last past, until the end of the next session of the General Assembly after, and no longer, as by the said two Acts appears; and whereas the said Alexander Parris hath continued in the said office near the term limited by the last recited Act, and ought, according to the directions of the same, to cease acting as publick Receiver when the time is expired; nevertheless, in regard to the present circumstances of publick affairs, *Be it enacted* by the authority aforesaid, that the said Alexander Parris shall continue publick Receiver until removed by a vote of the House of Commons.

XXV. *And be it also enacted* by the authority aforesaid, That the said publick Receiver, nominated and appointed according to the powers and

directions of the above recited Act, and who pursuant thereunto shall take upon him to execute the said office, such person shall immediately after the ratification of this Act, before any Justice of the Peace, take the following oath, viz: I, A. B. appointed publick Receiver of the Province of South Carolina, will truly and faithfully discharge the trust reposed in me, as publick Receiver of the same—I will not issue, dispose or apply, or cause to be issued, disposed, applied or paid, any money that now is, or may hereafter come into my hands, as publick Receiver aforesaid, otherwise than is or shall be directed by this or any other Act or Acts of the General Assembly of this Province; and I will keep true and faithful accounts of all the money or effects that is or may come into my hands or possession, and that shall be issued and paid by me, by virtue of any such Acts, with the times of my receiving and paying the same; So help me God. And if he shall neglect to take the said oath, he shall forfeit to the publick the sum of one thousand pounds, to be recovered against him by action of debt, in any court of record within this Province; and the said publick Receiver likewise, for the better security of the publick revenue, shall immediately enter into bond, according to the form prescribed in the Act by which his salary is appointed, to three members of the House of Commons, or any two of them, (whereof the Speaker to be one,) who are hereby impowered to take the same bond of the said Receiver, for the use of the publick, in the penal sum of five thousand pounds, which bond shall be and remain in the hands of the Speaker of the House of Commons.

A. D. 1716

Persons employed, to take an oath.

XXVI. *And be it enacted and provided*, If the said Receiver for the time being shall die, depart this Government, or cease to be Receiver, the Assembly not sitting, then and in such case, and not otherwise, the Governour for the time being, with the advice and consent of his Council, by a warrant under his hand and seal, shall impower and appoint a Receiver, and him so impowered and appointed shall continue six months, or to the next sitting of the Assembly; and he so impowered and appointed shall have the same power and profits, and be under the same directions and penalties, fines and forfeitures, as if he had been nominated by a vote of the Commons House of Assembly; which person so nominated and appointed shall give bond to the said Governour, with the like sufficient security as any publick Receiver appointed by the House of Commons, and take the same oath as is herein prescribed and directed to be taken by the publick Receiver.

In case the Receiver shall die, &c.

XXVII. *And be it likewise further enacted and provided*, That in all and every such like case or cases, wherein a Comptroller of the Customs of this Province shall be wanting, as in the next above mentioned clause set forth, with relation to the publick Receiver, then, and in every such case, the said new Comptroller shall be appointed by and give bond in the sum of one thousand pounds to the Governour for the time being, for the faithful execution of his office, and he shall continue in the same until removed by a vote of the House of Commons.

Every new Comptroller to give bond.

XXVIII. *And be it further enacted* by the authority aforesaid, That the persons, or any one of them, to whom either the Receiver or Comptroller has entered into bond, according to the directions of this Act, are hereby impowered, in the name of the Palatine and the rest of the true and absolute Lords and Proprietors of this Province, but for the sole use, benefit and behoof of the publick, to sue either of the aforesaid bonds, if the same at any time shall become forfeited, and not otherwise: and that if at any time during the time any Receiver or Comptroller shall be in place, and during his life-time, the aforesaid obligation shall become forfeited and sued by the said persons, or any one of them, and judgment thereupon

Obligees may sue for the public use.

A. D. 1716.

obtained, then and in such case the said Receiver or Comptroller shall give a new obligation to the said persons, of the same tenor; and if the said Receiver or Comptroller shall refuse to give any such new obligation as aforesaid, he shall cease to be Receiver or Comptroller, as if dead or absent, and all former obligations by the said Receiver or Comptroller given, as aforesaid, shall be null and void, from and after his the said Receiver's or Comptroller's giving a new obligation as aforesaid.

Public Receiver
and Comptroller
to give daily
attendance,
from 9 A. M.
to 12.

XXIX. And for the more easy and regular dispatching of all persons concerned in the entering and clearing all their business relating to the publick duties, *Be it further enacted* by the authority aforesaid, That the publick Receiver with the Comptroller, shall upon every day in the week (Holydays excepted) give their attendance in some certain place in Charlestown, to be appointed by the publick Receiver, for and during the space of three hours, that is to say, from the hour of nine to the hour of twelve in the forenoon, of which time and place the publick Receiver is to give notice to all persons concerned, by affixing the same at the watch house in Charlestown; and if the publick Receiver and the Comptroller shall neglect to attend at the time and place aforesaid, they so neglecting shall forfeit the sum of ten pounds, to be recovered and disposed of as is hereafter mentioned.

How forfeitures
and penalties
may be sued.

XXX. *And be it further enacted* by the authority aforesaid, That all the several and respective fines and forfeitures under forty shillings, which shall accrue or become due by virtue of this Act, shall be recovered as in the Act of small and mean causes is provided; and all the several fines and forfeitures above forty shillings, shall and may be sued by any action of debt, bill, plaint or information, in any court of record within this part of this Province, wherein no essoin, privilege, protection, or stay of prosecution, by *non vult ulterius prosequi*, or otherwise, shall be admitted or allowed of; and the several and respective forfeitures that shall be recovered by virtue of this Act, shall be and remain, one moiety or half part thereof to any lawyer or lawyers who will prosecute the same to effect, and the other moiety or half part thereof to such person or persons as shall inform and sue for the same.

Proof of prop-
erty to lie on
the claimant.

XXXI. And if any of the liquors, furs, skins, goods or merchandize aforesaid, be seized for an offence committed against this Act, if the property be claimed by any person or persons, as the importer or exporter thereof, in such case the *onus probandi* shall lie upon the owner or claimer thereof, and shall not be incumbent on any prosecutor or informer, and the said owner or claimer thereof shall pay the costs of such action, bill, plaint or information, if judgment be given against him on the same.

No port charges
to be paid for
any more than
two voyages in
the year.

XXXII. *And whereas* sundry vessels trading from other of his Majesty's Plantations to this Province, do make several voyages here in one year's time, and are, every voyage, to pay all port charges, which is a discouragement to the masters and owners thereof; for the further encouragement of trade and navigation, *Be it enacted* by the authority aforesaid, That if any vessel trading to and from this port to any place or port beyond the seas, shall happen to make more voyages than two in one year's time, the said vessel or vessels shall for all voyages above two so made in one year's time, pay no other part charges than only the Governour's and Secretary's fees, any Act, custom or ordinance to the contrary in any wise notwithstanding.

Proceeds of
duties to be
appropriated
by the General
Assembly.

XXXIII. *And be it further enacted* by the authority aforesaid, That all and every the sum and sums of money that shall become due and arising by virtue of this Act, shall be appropriated, ordered and disposed of towards paying debts due by the publick, and all other contingent charges

of the government, as shall be ordered and directed by an order or ordinance of the General Assembly.

A. D. 1716

XXXIV. *And be it further enacted* by the authority aforesaid, That an Act entituled An Act for the laying an Imposition on Furs, Skins, Liquors and other Goods and Merchandize, imported into and exported out of this part of this Province, for the raising of a fund of money towards the defraying the publick charges and expenses of this Province, and paying the debts due for the Expedition against St. Augustine, ratified in open Assembly the sixth day of May, one thousand seven hundred and three; and one other Act of Assembly entituled An Explanatory and Additional Act to an Act entituled an Act for laying an Imposition on Furs, Skins, Liquors and other Goods and Merchandize, imported into and exported out of this part of this Province, for the raising of a fund of money towards the defraying the publick charges and expenses of this Province, and paying the debts due for the Expedition against St. Augustine, ratified in open Assembly the seventeenth day of September, one thousand seven hundred and three; and one other Act of Assembly, entituled an Act to make all goods imported and exported in any vessel belonging to this Port, to pay the same duties as if imported in vessels not belonging to the same, to encourage Navigation, and to empower the Governour to draw money out of the publick treasury for damage done to the town lots by intrenchments, ratified in open Assembly the sixth day of May, one thousand seven hundred and four; and one other Act, entituled An Explanatory and Additional Act to an Act entituled an Act for laying an Imposition on Furs, Skins, Liquors and other Goods and Merchandize, imported into and exported out of this part of this Province, for the raising of a fund of money towards the defraying the publick charges and expences of this Province, and paying the debts due for the Expedition against St. Augustine, ratified in open Assembly the ninth day of April, one thousand seven hundred and six; and one other Act of Assembly entituled An Act to make and establish Bills of Credit for raising the Sum of Eight Thousand Pounds, for satisfying the debts due by the Publick on account of the late Invasion, for finishing the Fortifications about Charlestown, to revive the several Acts within mentioned, and to call in the former Bills of Credit, ratified in open Assembly the fifth day of July, one thousand seven hundred and seven; and one other Act of Assembly entituled An Act to continue the impositions on Liquors, &c. and for a fund and security of the payment of the sum of Eight Thousand Pounds, for sinking the Bills of Credit, and for empowering the Publick Receiver for the time being to recover and get in all outstanding Taxes, ratified in open Assembly the twelfth day of July, one thousand seven hundred and seven; and one other Act of Assembly entituled An Act for raising the Sum of Five Thousand Pounds, ratified in open Assembly the four and twentieth day of April, one thousand seven hundred and eight; and one other Act of Assembly, entituled, An Act for raising the Sum of Three Thousand Pounds in small bills, for the sinking One Thousand of the former bills, and Two Thousand Pounds for and towards the payment of the debts due from the Publick, and to appoint a Fund for the same, ratified in open Assembly the first day of March, one thousand seven hundred and ten; and also the additional duty laid on Negroes imported, by the fourteenth section of the Act entituled An Act for raising the Sum of Four Thousand Pounds, current money, by laying sundry additional duties on Liquors and other Goods and Merchandize, for the carrying on an Expedition against the Northern Indians, enemies to the Crown of Great Britain, and for the aiding and assisting the inhabitants of North Carolina, who are now actually

Several former Acts repealed.

A. D. 1716.

Duties already
laid on skins,
furs, &c. not
repealed.

Nor to exonerate the Public
Receiver from
accountability.

invaded by sundry of the said Indians, ratified in open Assembly the tenth day of November, one thousand seven hundred and eleven; and also the eight first clauses or sections of an Act entitled An Act to ascertain a Fund for cancelling the Sum of Seven Thousand five hundred sixty and six pounds four shillings and eight pence halfpenny, in bills of credit, that is to say, Three thousand five hundred and sixty-six pounds four shillings and eight pence halfpenny, the remaining bills uncanceled of the £4000 made by Act of Assembly, for the carrying on the northern expedition against the Tuscororaes, and the sum of £4000 more, being so much directed to be paid to the publick Receiver by an Act entitled An Act for the making the sum of £52,000, &c. (for which there has not been yet any fund appointed,) ratified in open Assembly the twelfth day of December, one thousand seven hundred and twelve; and one other Act of Assembly, entitled An Act to prevent Wines of the growth of the Western Islands to be imported into this Province as Wines of the growth of Madera, and for lessening the duty of light Skins, not weighing sixteen ounces, ratified in open Assembly the eighteenth day of December, one thousand seven hundred and thirteen; and also the section, clause or paragraph, relating to an additional duty on Negro Slaves imported, by the Act entitled an Additional Act to an Act entitled an Act for the better ordering and governing of Negroes and all other Slaves, ratified in open Assembly the eighteenth day of December, one thousand seven hundred and fourteen; and also the five last sections, paragraphs or clauses in an Act, entitled, An Act to revive and continue several Laws and paragraphs of Laws, and for the repealing and making void some clauses in other Laws, ratified in open Assembly the eighteenth day of December, one thousand seven hundred and fourteen; and also the two last clauses, sections or paragraphs in the Act, entitled, An Additional Act to an Act entitled an Act for raising the Sum of £2000, off and from the Estates real and personal of the inhabitants of this Province, ratified in open Assembly the eighteenth day of December, one thousand seven hundred and fourteen; and for laying an additional duty on all Negro Slaves imported into this Province from any part of America, ratified in open Assembly the eighteenth day of February, one thousand seven hundred and fourteen:—That all the said several Acts and Laws, and the said several paragraphs, sections, or clauses of laws, herein specified and enumerated, and every sentence, word or thing therein, or in any of the said Acts contained, are hereby repealed, annulled, and made void and of none effect, to all intents and purposes whatsoever; any thing in the above recited Acts and Laws, or in any clause, section or paragraph hereby declared repealed, or in any other Act to the contrary thereof in any wise notwithstanding. *Provided* nevertheless, that nothing in this Act shall extend, or be construed to extend, to repealing the duties laid on Skins and Furs, which duties are made perpetual by several Acts in this Province, and are appropriated to the payment of the clergy and other foundations of piety and encouragement of learning in this Province, and are hereby declared to be in full force and virtue, as if this Act had never been made. *Provided* likewise, that nothing in this Act shall extend to the repealing any clause, whereby the present publick Receiver is made accountable for all or any of the moneys received or to be recovered and received by him, by virtue of any of the said Acts or Laws, or for the exempting any person or persons from paying any sums of money due from them to the publick, for or by

reason of the duties arising by any of the said laws; any thing in this Act to the contrary thereof in any wise notwithstanding. A. D. 1716.

XXXV. *And whereas*, divers laws, which did impose duties upon negroes, goods, wares and other merchandize imported into the Province, are by this Act repealed and made void, *Be it enacted* by the authority aforesaid, That the said goods, wares and other merchandize, shall pay the same duties as were imposed upon them by the above recited repealed laws, during the space of the abovesaid three months, herein before mentioned; any thing in this or any other Act contained to the contrary in any wise notwithstanding. Former duties to be paid during three months.

XXXVI. *And whereas*, it is necessary (in order to prevent the publick Receiver and the Comptroller of our customs in this Province, extorting from the inhabitants exorbitant fees,) that their said fees be ascertained; *Be it therefore enacted* by the authority aforesaid, That for every entry of goods imported, the person entering the said goods shall pay unto the publick Receiver the sum of two shillings and sixpence; and to the Comptroller the sum of two shillings and six pence for each entry inwards; and likewise, for all entries of goods liable to pay country duties outwards, two shillings and six pence for each entry; and every master of a vessel, taking out from the publick Receiver a certificate of having cleared with him, shall pay unto the publick Receiver two shillings and six pence for each certificate so granted, and no more. Fees of the Receiver and Comptroller.

XXXVII. *And be it further enacted*, That if the publick Receiver or Comptroller shall demand or take more than the above recited fees, he or they shall forfeit for every such offence the sum of two pounds, current money of this Province, to be recovered in such cases as in the Act for the Tryal of small and mean Causes is directed. Penalty on extortion.

XXXVIII. *And be it further enacted* by the authority aforesaid, That the Comptroller, and each of the waiters of or belonging to the customs of this Province, shall immediately after the ratification of this Act, before any Justice of the Peace, take the following oath, *mutatis mutandis*, viz:— I, A. B. do sincerely swear in the presence of Almighty God, that I will faithfully discharge my trust (as Comptroller or Waiter) of the Customs of this Province, and to the best of my power, without favour or affection, put in execution all and every thing in this Act enjoyned me (as Comptroller or Waiter): So help me God. Oath to be taken.

XXXIX. *And be it further enacted*, by the authority aforesaid, That this Act, and every thing therein contained, continue to be and remain in full force for three years, and from thence to the end of the next sessions of the General Assembly, and no longer.

*Read three times and ratified in open Assembly,
this 30th day of June, 1716.*

ROBERT DANIELL,
THOMAS SMITH,
CHARLES HART,
GEORGE LOGAN,
NICHOLAS TROTT,
SAMUEL EVELEIGH.

A. D. 1716.

No. 360. *AN ACT* to continue the Currency of Thirty Thousand Pounds in Bills of Credit, stamped and made by virtue of an Act of the late General Assembly of this Province, entituled An Act to Raise Forces to prosecute the War against our Indian Enemies, and to stamp Bills of Credit for the payment of the Army and defraying the Charges of the War, and to ascertain a Fund for cancelling the same Bills, &c. ratified in open Assembly the twenty-seventh day of August, one thousand seven hundred and fifteen; as also to continue the Currency of Five Thousand Pounds in Bills of Credit, made by virtue of an Act of this present General Assembly, ratified the twenty-fourth day of March, one thousand seven hundred and fifteen, entituled An Act for raising Funds to prosecute the War against our Indian Enemies, and to stamp Bills of Credit for payment of arrears due to the Soldiers enlisted in the Army, &c.; as also to Stamp the Sum of Fifteen Thousand Pounds in Bills of Credit, for supporting and carrying on the present War against our Indian Enemies, and defraying the Charges of the same; and also to raise and levy the Sum of Ninety-five Thousand Pounds, (that is to say,) Thirty-five Thousand Pounds for this present year, one thousand seven hundred and sixteen, and the sum of Thirty Thousand Pounds per annum for the two succeeding years, off and from the Lands and Negroes of the Inhabitants of this Province, for the paying off and discharging the Publick Debts already contracted or to be contracted by reason of the present Indian War or otherwise, and in order to sink the said several sums of Thirty Thousand Pounds, Five Thousand Pounds, and Fifteen Thousand Pounds, stamped and to be stamped in Bills of Credit as aforesaid, and for other the purposes hereinafter mentioned; and for apportioning the sum of Sixteen Thousand Pounds, part of the aforesaid tax, on the Merchants and other Inhabitants living and residing within the limits of the town plat of Charlestown.

Preamble.
Act of August 7, 1715, No. 355. WHEREAS, by an Act of the General Assembly, ratified the twenty-seventh day of August, one thousand seven hundred and fifteen, it was enacted amongst other things therein contained, for the reasons therein mentioned, that it should and might be lawful to and for the commissioners in the said Act named, immediately after the ratification of the same, to cause to be made a certain number of Bills of Credit, amounting in the whole to the sum of thirty thousand pounds, to be current in all payments to the publick Receiver and all others: And whereas, by one other Act of the General Assembly of this Province, ratified the same twenty-seventh day of August, one thousand seven hundred and fifteen, entituled an Act to raise the sum of Thirty Thousand Pounds off and from the Estates real and personal of the inhabitants, in order to sink the like sum of thirty thousand pounds in bills of credit, stamped for the more speedy carrying on and defraying of the charges of the war against our Indian enemies and their confederates, also for raising the sum of thirty thousand pounds, towards discharging the debts contracted by the publick since the commence-

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ment of the war, it is enacted amongst other things that the sum of thirty thousand pounds should be equally and indifferently raised, imposed and levied upon the estates real and personal, stocks and abilities of all and singular the merchants and other persons, residing or otherwise interested within this part of the Province that lies South and West of Cape Fear, at such times and after such manner as therein is mentioned, (that is to say,) the sum of Thirty Thousand Pounds to be levied and paid, on or before the first Tuesday in April, which should be in the year of our Lord one thousand seven hundred and sixteen, to be applied as before in the same Act is mentioned, for the sinking the same sum of Thirty Thousand Pounds in bills of credit stamped as aforesaid; and further enacting in and by one other clause of the same Act, that the sum of Thirty Thousand Pounds should be also levied and paid to the Publick Receiver, on or before the second Tuesday in April, which should be in the year of our Lord one thousand seven hundred and seventeen, to be applied for and towards discharging and paying the debts then already contracted by the publick, in such method as is therein directed: And whereas, by reason of the late troubles and confusions, occasioned by the Indian war, and the estates, interests and effects of divers persons then lay on or near the frontier settlements, exposed to the enemy, so that the inquisitors appointed by the said Act, could not without great hazard and danger, make any inquiry thereof, or return the same to the assessors as by the said Act is directed, and other the great difficulties that obstructed and hindered the raising the said tax, the said several sums of Thirty Thousand Pounds and Thirty Thousand Pounds or either of them could not, were or can be assessed, levied or raised, by the time therein limited.

I. *Be it therefore enacted* by his Excellency John Lord Cartaret, Palatine, and the rest of the true and absolute Lords and Proprietors of the Province of Carolina, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south-west part of this Province, and by the authority of the same, That the aforesaid Act for raising the said sums of Thirty Thousand Pounds and Thirty Thousand Pounds, ratified the twenty-seventh day of August, one thousand seven hundred and fifteen, be and is hereby repealed, and that all and every matter and thing that hath hitherto been done or transacted towards the assessing, raising and levying the aforesaid sums, be and is hereby declared null and void to all intents and purposes whatsoever.

Act No. 355
repealed.

II. *And whereas* there is at this time an absolute necessity for giving a further currency to the said bills of thirty thousand pounds, stamped by virtue of the said first recited Act of the twenty seventh of August, one thousand seven hundred and fifteen, as also to the said bills of Five Thousand Pounds, stamped by virtue of the said Act of the twenty-fourth day of March then following, than was given or intended to be given in and by the same Acts, inasmuch as the said bills cannot be so suddenly called in and sunk without laying too great and insupportable a tax and burthen on the inhabitants at this juncture, *Be it therefore enacted* by the authority aforesaid, That as well the said sum of Thirty Thousand Pounds, as also the said sum of Five Thousand Pounds, stamped and made in bills of credit, by virtue of the said two several Acts of Assembly, ratified the twenty-seventh day of August, one thousand seven hundred and fifteen, and the twenty-fourth day of March then following, shall be and continue current for the sums therein mentioned, in all payments to the Publick Receiver and all others, for and until such time as the same shall be called in, cancelled and sunk, by a fund or tax of Ninety-five Thousand Pounds, hereby intended to

Bills of credit
to the amount
of £30,000 and
£5000 declared
valid till called
in and cancell-
ed by a tax of
£95,000.

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be raised and levied for and towards sinking the said bills, and other the purposes hereinafter mentioned.

Commissioners
to get ready
bills of credit
from £5 to £20,
to amount of
£15,000.

III. *And whereas* the aforesaid sums of Thirty Thousand Pounds and Five Thousand Pounds herein before mentioned, to be stamped in bills of credit, by virtue of the aforesaid Acts of the twenty-seventh of August and twenty-fourth of March, one thousand seven hundred and fifteen, have been applied towards the defraying of the charges of the present war, and the Publick Treasury now almost, if not quite exhausted. And whereas it is absolutely necessary that the sum of Fifteen Thousand Pounds be forthwith provided for the paying and maintaining of the officers and soldiers, and other necessary charges of the war. And whereas a present and immediate sufficient fund cannot be raised by levying a tax on the inhabitants, to answer the present exigencies, *Be it enacted* by the authority aforesaid, that it shall and may be lawful to and for the commissioners hereinafter for that purpose named, and they are hereby authorized, impowered and required, immediately after the ratification of this Act, to cause to be made a certain number of bills of credit, the least beginning at Five Pounds and highest not exceeding Twenty Pounds, amounting in all to the sum of Fifteen Thousand Pounds, which said bills when made and signed by the said commissioners or any three of them, and stamped with different stamps in their presence, shall by the said commissioners or any three of them, be given to and applied towards the payment of the said officers, soldiers and other incident charges of the war, as by an order under the hands of the said commissioners or any three of them, shall be directed, and to and for no other use, intent or purpose whatsoever, save the charges of making and stamping the said bills.

Said bills to be
indented with
counterparts.

IV. *And be it further enacted* by the authority aforesaid, That all the said bills shall be indented and cut off in the presence of the said Commissioners, and the counter part of the indenture by them to be kept fairly bound in a book, and also the said bills shall be numbered, and the counterparts of the indentures shall have the same number of the bills.

Commissioners
to defray the
expences with
the said bills.

V. *And be it further enacted* by the authority aforesaid, That the said commissioners or any three of them, are hereby authorized and impowered to pay all such sum and sums of money, as the charges of making and stamping of the said bills shall amount unto out of the said bills.

Plates and
stamps to be
defaced.

VI. *And be it further enacted* by the authority aforesaid, That as soon as the commissioners aforesaid have seen the said bills of credit stamped and signed in the manner before directed, they shall order the plates and stamps to be defaced in their presence, and such spare bills as are not signed to be burnt.

Commissioners
nominated.

VII. *And be it further enacted* by the authority aforesaid, That Captain Jonathan Drake, Mr. Robert Tradd, Captain William Bull, Captain Anthony Mathews and Mr. Andrew Allen, be and are hereby appointed commissioners for stamping the said sum of fifteen thousand pounds in bills of credit herein before mentioned, and intended to be hereby stamped and made, and also for paying off the officers and soldiers and other incident charges of the war. And the commissioners aforesaid, are hereby authorized and impowered, as often as the paymaster of the army for the time being, shall return them a list or number of men enlisted in the service of the war, whether in the army or garrison, or bring in and lay before them any amount or amounts with proper vouchers to the same, to deliver unto the paymaster aforesaid, so much money out of the said bills, taking his receipt for the same, as will pay off such accounts so laid before them, of which accounts they are hereby appointed the proper

judges, and the said commissioners shall meet at such house in Charleston as they shall think fit, within ten days at farthest, after the ratification of this Act or sooner if conveniently may be, and there sit de die in diem, if need be, until the said sum of Fifteen Thousand Pounds, herein before mentioned and intended to be hereby stamped and made in bills of credit, be compleated and finished; and from and after the compleating and finishing the said bills, every Tuesday and Friday weekly, and every week if need be, to dispatch the business aforesaid, required of them by this Act, and to be allowed out of the said bills, ten shillings per diem each, for their attendance when they shall make a full board and meet to do and transact the business aforesaid, and to have the nomination of a Secretary to their said board, and he to be likewise allowed ten shillings per diem, and a messenger at five shillings per diem, to be paid as aforesaid.

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Commissioners to meet within ten days after the passing of this Act.

On every Tuesday and Friday.

Secretary to be appointed.

VIII. *And whereas* by one Act, entituled an Act to raise forces to prosecute the war against our Indian enemies, and to stamp bills of credit for payment of the army and defraying the charges of the war, and to ascertain a fund for cancelling the same bills, &c., ratified in open Assembly the twenty-seventh day of August, in the year of our Lord one thousand seven hundred and fifteen, which is since expired, it is amongst other things therein enacted, that the commissioners thereby appointed for making bills of credit, should likewise adjust the accounts and direct the payment of the army, after such manner and method as in the said Act is set forth. And whereas the said commissioners have not compleatly finished adjusting the accounts of the army as aforesaid, and it being very necessary, as well as highly just and reasonable, that the same be so finished with all convenient speed, in order to take and make a more exact account and calculation of the publick debts, and that a certain longer time may be allowed those of the said commissioners as are now remaining of them, to perfect and compleat the amounts aforesaid, *Be it therefore enacted*, That those of the said commissioners who are now remaining, and that were impowered by virtue of the above recited Act, to transact the several matters and things therein particularly mentioned relating to their duty, be and they or any three of them, are hereby fully authorized and impowered and required likewise, within two months after the ratification of this Act, to state, settle, adjust and compleatly finish the accounts of the said army, and if need be, to draw orders on the Paymaster thereof, to pay what is justly due to any person or persons (who is hereby required to pay the same) according to the tenour, directions and appointments of the said Act, by virtue of which they were nominated and appointed commissioners, any thing in this or any other Act mentioned, relating thereto, contained, to the contrary thereof in any wise notwithstanding.

Commissioners under former Acts to settle their accounts in two months.

IX. *And be it further enacted*, by the authority aforesaid, That in case any merchant or planter, or other person having any goods, wares, merchandizes, corn, rice, pease, pitch, tarr, turpentine, or any other commodity whatsoever, and being willing to sell and dispose of the same, and shall refuse to sell the same for the aforesaid bills of credit of Thirty Thousand Pounds, Five Thousand Pounds or Fifteen Thousand Pounds, stamped or to be stamped as aforesaid, being duly tendered in payment for the same, he, she or they so refusing, shall and may be prosecuted by indictment at the next General Sessions of the Peace to be holden for this Province, and being thereof convicted, shall for every such offence or refusal, have a fine set on him by the Chief Justice for the time being, of treble the value of the money so tendered in payment, the one half thereof to be paid to the Publick Receiver for the use of the publick, and the other half to the

Persons refusing to receive the bills of credit in payment, to be indicted.

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person to whom such refusal was made, and shall stand committed till he pay the same ; but in case the said forfeiture or penalty shall be under the value of forty shillings, the same shall be recovered as in the Act for tryal of mean causes is directed.

Counterfeiting
the bills of
credit.

X. *And be it further enacted* by the authority aforesaid, That if any person shall counterfeit any of the said bills of Thirty Thousand Pounds, Five Thousand Pounds or Fifteen Thousand Pounds, stamped and made currant, or to be stamped and made currant as aforesaid, or knowing any of them to be false or counterfeit, shall utter the same in payment, that then and in such case, the counterfeiter or any one aiding or fraudulently contriving and assisting to utter any such false or counterfeit bill or bills, being thereof duly convicted at the next General Sessions to be holden for this Province, shall be punished as guilty of felony, without benefit of clergy.

The taxes to be
assessed and
levied equally
on real and per-
sonal estate and
negroes.

XI. *And whereas* it is necessary that a fund be appointed, as well for discharging and paying off the publick debts already contracted since the commencement of the present war, as for sinking the said bills of credit of Thirty Thousand Pounds, Five Thousand Pounds and Fifteen Thousand Pounds, stamped or to be stamped as aforesaid, and that the publick faith may be thereby supported, and the currency of the said bills strengthened, *Be it further enacted* by the authority aforesaid, That the sum of Ninety-five Thousand Pounds be equally and indifferently raised, imposed and leyed upon the lands and negroes of the several inhabitants, planters and others residing, living or otherwise interested within the several counties of all this part of the Province that lies South and West of Cape Fear, and upon the several estates, real and personal, stocks and abilities of the several merchants and other inhabitants, living or residing within the limits of the town plot of Charlestown, at such days and times, and after such manner and form, and by such persons as are hereinafter mentioned and directed (that is to say,) Thirty-five Thousand Pounds, part of the said sum or tax of Ninety-five Thousand Pounds, hereby first intended to be raised, shall be assessed, levied and paid to the commissioners hereinafter for that purpose named, on or before the second Tuesday in March next ensuing, and the said further sum of Thirty Thousand Pounds other part of the said sum or tax of Ninety-five Thousand Pounds, on or before the second Tuesday in March, which shall be in the year of our Lord one thousand seven hundred and seventeen, and the like further sum of Thirty Thousand Pounds, the remaining part of the said sum or tax of Ninety-five Thousand Pounds, on or before the second Tuesday in March, which shall be in the year of our Lord one thousand seven hundred and eighteen.

Times of pay-
ment.

Nomination of
Inquirers or
Inquisitors.

XII. *And be it further enacted* by the authority aforesaid, That for the several parishes in this Province, the several persons hereinafter named, (that is to say,) for the several parishes in Berkley county, viz : for the parish of St. Philips, Charlestown, within the town plot, Mr. Edmund Brailsford, Mr. Jacob Satur and Mr. Elisha Prioleau, and for that part without the limits of the said town plot up the Neck, in the said parish, Mr. Joseph Garrett and Mr. John Pendarvis ; for Christ Church parish, Captain William Capers, Captain Thomas Lynch and Captain John Hartman ; for the parish of St. Thomas and St. Dennis, Mr. Daniel Huger, Mr. Josias Dupree, Capt. Richard Harris, Mr. Richard Codner and Peter Videau ; for the parish of St. Johns, Capt. Paul LeBass, Mr. John Oldfield and Mr. Gabriel Marion ; for the parish of St. James Goose Creek, Capt. Thomas Smith, Mr. Rodger Moore, Mr. William Stead, Major Percival Pawley and Mr. Isaac Porcher ; for the parish of St. Andrews, Mr. William Fuller, Mr. John Williams ; for the South side of Ashley

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River, and for the North side thereof, Mr. Richard Bütler, Mr. James Boswood, Mr. Nathaniel Carr and Mr. Benjamin Warsing; for James Island, Mr. William Wilkins and Mr. John Hyene, and for the several parishes in Colleton county, viz: for the parish of St. Paul, viz: for John's Island, Colonel John Fenwick, Mr. Samuel Jones and Mr. Hugh Hex; for Wadmelow Island, Captain Arthur Hall and Mr. James Burt; for Edisto Island, Mr. Lawrence Dennis and Mr. Henry Bower; for Stonoe and the branches thereunto belonging, Captain Thomas Elliott and Mr. James Gibberton; for the East side of Ponpon on South Edisto River, Colonel Abraham Eves and Captain William Scott; for the parish of St. Bartholomew, viz: for the West side of South Edisto River, Mr. John Godfrey, Captain John Jackson and Mr. William Peters; for Ashepoo, Captain Edmund Bellinger and Mr. Nicholas Bohun; for Combahee and Chehaw, Captain Rowland Evans and Captain John Palmer; for the parish of St. James Santee, in Craven county, Mr. Bartholomew Galliard, Mr. Elias Horey and Mr. Peter Robert; for English Santee, Captain John Cantey and Captain Benjamin Scheuchingh; for Wineau, Captain Robert Scriven and Mr. Samuel Miller; for the parish of St. Hellens, in Greenville county, Major Lewis Quintin, Mr. William Holmes, Mr. Richard Reynolds and Captain John Beamor, be and are hereby appointed Enquirers or Inquisitors, and are hereby impowered and required to take and make an account in writing, on or before every second Tuesday in November yearly, and every year during the continuance of this Act, of all and every the inhabitants of this Province, within their several parishes and precincts, upon their corporal oaths, to be taken on the holy evangelists, what quantity of lands any person or persons are any ways possessed of, interested in or entitled unto, (that is to say,) the number of Acres in each distinct tract, according to their several plots and grants or title deeds whereby they hold the same, either in that parish or any other part of the said Province, either in his or their own right, or as Executor or Administrator, Guardian, Trustee or Attorney, to or in trust for any other person or persons whatsoever, in the parish or precinct wherein he, she or they are then resident, or any other part of the Province aforesaid, and the several counties and most noted places where such lands do lie; and the Inquisitors aforesaid, are hereby also impowered and required to enquire of all and every the persons aforesaid, what number of negroes or Indian slaves, men, women or children, they are any ways possessed of, interested in or entitled unto, either in their own right, or as Executor or Administrator, Guardian, Trustee or Attorney, to or for any other person or persons whatsoever, and to return their several accounts of the said lands, negroes and Indian slaves so taken, to the assessors hereinafter for that purpose named, at such days and times as hereinafter is limited and directed.

XIII. *And whereas* the several estates, interests and effects of the merchants and other inhabitants of Charlestown, consist mostly in town lots and the messuages, tenements, buildings and improvements thereon, and also in goods, wares and merchandizes, ready money, &c. whereby according to the foregoing method for the raising the said tax on lands and negroes only, the said merchants and other inhabitants of Charlestown would be in a great measure exempted from paying their proportionable part of the said tax, *Be it therefore enacted* by the authority aforesaid, That the sum of Sixteen Thousand Pounds current money, part of the aforesaid tax or sum of Ninety-five Thousand Pounds, be equally and indifferently imposed, levied and raised on the real and personal estates,

£16,000 to be
levied on the
merchants and
inhabitants of
Charlestown.

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Times of payment.

Goods held on consignment to be exempted.

Inquisitors to administer an oath to owners of property.

stocks and abilities of the several merchants and other inhabitants, living or residing within the limits of the town plot of Charlestown aforesaid, (that is to say,) Six Thousand Pounds, part of the said sum of Sixteen Thousand Pounds to be assessed, levied and raised, on or before the second Tuesday in March now next ensuing, the sum of Five Thousand Pounds, other part of the said sum of Sixteen Thousand Pounds, on or before the second Tuesday in March, which shall be in the year of our Lord one thousand seven hundred and seventeen, and the like sum of Five Thousand Pounds, other remaining part of the aforesaid sum of Sixteen Thousand Pounds, on or before the second Tuesday in March, which shall be in the year of our Lord one thousand seven hundred and eighteen; and the Inquisitors aforesaid, for the parish of St. Philips, Charlestown, for their better direction in the premises, are hereby directed and ordered to inquire into and take an account in writing, of all such real and personal estate, stocks and abilities of the said merchants and other inhabitants, living or residing within the limits of the said town plot of Charlestown, which they shall be possessed of, interested in or entitled unto, within the said limits of the said town plot, or in or upon Ashly and Cooper rivers, or other creeks or rivers within Charlestown bar, and the same to return to the Assessors at the same days and times in this Act given to the other Inquisitors; and that all and every merchant or other inhabitant of Charlestown, being possessed of any lands or negroes without the said limits, the same shall be inquired of by the several Inquisitors of the several parishes, precincts and places where such lands and negroes are and do lie, and by them to be returned to the Assessors hereinafter appointed as aforesaid, any thing hereinbefore contained to the contrary notwithstanding.

XIV. *Provided* always nevertheless, That nothing herein before contained, shall extend or be construed, to give the said Inquisitors or Assessors any power or authority to rate, tax or assess any such goods, wares or merchandizes as shall be consigned to the merchants or factors in this Province immediately from the merchants of Great Britain and Ireland or elsewhere, to dispose of as factors only; and except also the effects of such transient persons as have not resided within this Province for three months before such inquisition shall begin to be made.

XV. *And be it further enacted*, by the authority aforesaid, That every Inquisitor without the said limits of Charlestown, in the presence of one or more Inquisitor or Inquisitors of the same parish or precinct, shall before such inquisition made, administer the following oath to every person of whose estate he is directed by virtue of this Act to inquire into, viz: You, A. B., do sincerely swear, now to render unto C. D. and E. F., Inquisitors for this parish or precinct, a just and true account of all such lands, negroe and Indian slaves, mustees and mulattoes, men, women or children, which you are any ways possessed of, interested in or entitled unto within this Province, either in your own right or as executor or administrator, guardian or attorney, to or in trust for any other person or persons whatsoever, and shall true answer make without any equivocation or mental reservation to all such other questions as shall now be demanded of you relating thereto, so help you God: or, this you declare according to the form of your profession; when the same shall be tendered to such persons who are known to be scrupulous in using the ceremony of laying their hands on the book and swearing on the holy Evangelists; and the said Inquisitors shall then proceed to inquire of all and every such person and persons as before in this Act is directed: which said account so rendered, given in or taken, the said Inquisitors shall in writing, under their hands, return to the Assessors hereinafter named, at such days and times and in such manner and form as hereinafter is prescribed.

XVI. *And be it further enacted* by the authority aforesaid, That every inquisitor and inquisitors hereby nominated and appointed, before he or they proceed to inquire, as herein before directed, shall take the following oath before some justice or justices of the peace of the next adjacent parish or precinct: I, A. B., appointed to be one of the inquisitors for the parish or precinct of C., by virtue of a late Act of General Assembly of this Province, for the raising and levying a tax of ninety-five thousand pounds on the inhabitants of this Province, ratified the day of June, 1716, do hereby sincerely swear duely to put in execution the several powers and authorities to me given in and by the said Act, according to the best of my power, skill, knowledge and understanding: So help me God.

A.D. 1716.

Inquisitors to take an oath.

XVII. *And be it further enacted* by the authority aforesaid, That if any person or persons giving or rendering an account of his or their lands, negroe and Indian slaves, to the inquisitors aforesaid, without the limits of Charlestown, shall voluntarily or wilfully conceal any part thereof, all and every such person and persons shall forfeit all and every part of such real or personal estate concealed, the one half to the attorney that will prosecute the same, and the other half to him, her or them who will inform and sue for the same, by action of debt, bill, plaint or information, to be brought in the name of the publick Receiver for the time being, in any court of record within this Province, wherein no essoign, priviledge, protection or wager of law shall be allowed or admitted of. And the person or persons so concealing his, her or their lands, negroe or Indian slaves, shall also be indicted at the then next general sessions of the peace to be holden for this Province, and being thereof convicted, shall suffer the same punishment as in case of wilful perjury.

Penalty on concealing of property.

XVIII. *And be it further enacted* by the authority aforesaid, That if any person or persons who shall be legally required by the inquisitors of that parish or precinct in which he, she or they usually reside or inhabit, without the the said limits of Charlestown plat, shall refuse to render an account on oath of their lands, negroe and Indian slaves he, she or they have or lay claim to within the said parish or precinct, or within any other part of the Province aforesaid, or shall refuse to be examined upon oath touching all such other matters as the inquisitors are by virtue of this Act impowered and authorized to inquire into, that then and in such case the inquisitors of such parish or precinct shall, according to the best of their knowledge and judgment, compute the full value of such person's estate, and return the same to the assessors hereinafter named, and certify such refusal to the said assessors, who are hereby impowered and required to rate and assess all and every such person and persons doubly in proportion to what other persons are rated and assessed at; any thing herein before contained to the contrary notwithstanding.

Persons refusing to render an account of their property on oath.

XIX. *And be it further enacted* by the authority aforesaid, That in case any merchant or other inhabitant within the limits of Charlestown plat, shall refuse, when thereunto required, to render to the inquisitors before appointed for the said town, a particular account of his real estate and the full amount and value of his personal estate within the limits of the said town, the said inquisitors shall then proceed to value and appraise the estate of such person so refusing, to the full amount of what they shall believe or apprehend the same to be worth, and shall certify such refusal to the assessors hereinafter named, who shall and are hereby required and impowered to rate all and every such person and persons so refusing, doubly in proportion to what others are rated at.

Inhabitants of Charlestown so refusing.

XX. *And whereas* divers planters and others, living in the country, are possessed of divers town lots, messuages and tenements, within the limits

Planters owning lots in town.

A.D. 1716.

of the said town plat, *Be it therefore enacted* by the authority aforesaid, That all and every such planters and others be rated and assessed for the same by the inquisitors for the said town, and assessed as if he or they were actually living and resident within the limits of the said town.

Inquisitors
dying or absent.

XXI. *And be it further enacted* by the authority aforesaid, That if any inquisitor or inquisitors shall happen to die or go off this Province during the continuance of this Act, then and in such case the surviving or remaining inquisitor or inquisitors shall apply themselves to any one justice of the peace, who is hereby empowered to nominate and choose another inquisitor in his room and stead, which inquisitors so chosen shall have the same powers and authorities, and be subject to and under the same directions and penalties as the rest of the other inquisitors herein before appointed.

Inquisitors to
give in their
returns to the
assessors.

XXII. *And be it further enacted* by the authority aforesaid, That all and every the inquisitors aforesaid shall return and give in their several and respective accounts in writing under their hands to the assessors hereinafter named, on every second Tuesday in January yearly, and every year during the continuance of this Act, at the house of Nathaniel Partridge, or at such other house as the assessors shall meet at, in Charlestown; which said accounts, hereby first intended to be returned and given in, shall be returned and given in by the said inquisitors to the assessors hereinafter named, on the second Tuesday in January now next ensuing. And the several inquisitors herein before appointed for the several parishes and precincts without the limits of Charlestown plat aforesaid, and every of them, at the time of giving in their respective accounts, shall also take the following oath: I, A. B., do sincerely swear, that the accounts of the lands, negro and Indian slaves, of the several persons whose names are comprised in the account I now give in and return to you is a full, just and true account, according to the information to me given upon oath, as by this Act is required: So help me God. And the inquisitors herein before appointed to inquire for Charlestown, within the limits of the said town plat, shall take the following oath: I, A. B., do sincerely swear, that the accounts of the estates, real and personal, stocks and abilities, lying and being within the limits of the said town plat, of the several merchants and inhabitants of Charlestown, whose names are comprised in the accounts I now give in and return to you, are full, just and true accounts, according to the best of my knowledge or information, as by this Act is required: So help me God.

Upon oath.

Inquisitors to
give in an ac-
count of their
own property
on oath.

XXIII. *And be it enacted* by the authority aforesaid, That the inquisitors aforesaid for the several parishes and precincts without the limits of Charlestown, and every of them, at the time of giving in their other accounts, shall likewise give in an account of their own lands and negro and Indian slaves, mustees and mulattoes, with their respective names, in writing, under their hands, and shall take the same oath, *mutatis mutandis*, as they are herein before required to administer to the rest of the inhabitants on taking their accounts; and the assessors hereinafter named, or any three of them, are hereby ordered to administer the said oaths herein before last mentioned, provided one of them be in the commission of the peace. And the inquisitors for Charlestown shall likewise, at the time of giving in their other accounts, give in their own accounts to the assessors, that is to say, the particular account of their real estate and the full amount and value of their personal estate, under the penalty of being doubly rated for such neglect, by the said assessors, who are hereby empowered to do the same in case of such neglect; and the inquisitors aforesaid, and every of them, at the time of giving in their respective accounts, shall attend

the assessors to answer all such questions as shall be demanded of them by the assessors in relation to their returns, and shall not depart thence till such time as they are discharged from their attendance by the said assessors.

A. D. 1716.

XXIV. *And be it further enacted* by the authority aforesaid, That Mr. Benjamin Conseillere, Mr. Samuel Wragg, Mr Shem Butler, Mr. William Cattle and Mr. Charles Hill, or any three of them, be and are hereby appointed Assessors for the raising taxing and assessing of the aforesaid sum of ninety-five thousand pounds, on the lands, negro and Indian slaves, mustees and mulattoes, of the several inhabitants of this Province living and residing without the limits of Charlestown, and also on the estates, real and personal, stocks and abilities of the several merchants and inhabitants living and residing within the limits of Charlestown, as aforesaid. And the said assessors are hereby further empowered, ordered and directed, in the first place, to compute and cast up the whole number of acres which shall be returned to them by the said inquisitors, and to impose and assess thereon five shillings for every hundred acres which shall be so returned, according to the accounts to them given in by the said inquisitors, and the said assessors shall then compute how much the sum total, at five shillings per hundred acres, will amount unto, and having so done, the said assessors shall in the next place proceed equally, impartially and indifferently to rate and assess the several merchants and other inhabitants living and residing within the limits of Charlestown plat, until they have duly proportioned the said sums of six thousand pounds, five thousand pounds, and five thousand pounds, herein before mentioned and intended to be hereby levied and raised on the inhabitants of Charlestown, according to the several accounts returned in to them by the inquisitors herein before appointed for the said town; which said sums of six thousand pounds, five thousand pounds, and five thousand pounds, the assessors aforesaid shall cause to be added to the sum total arising as aforesaid upon the lands at five shillings per hundred acres; and whatsoever shall then appear to be deficient or wanting to make up the said tax or sum of thirty five thousand pounds, hereby first intended to be raised for this present year one thousand seven hundred and sixteen, or to what shall hereafter be so wanting of the said tax or sums of thirty thousand pounds and thirty thousand pounds, hereby intended to be raised for the years one thousand seven hundred and seventeen and one thousand seven hundred and eighteen, shall be imposed, assessed, levied and raised by way of poll, or so much per head on all and every the negro and Indian slaves, mustees and mulattoes, according to the numbers belonging to each inhabitant returned to them by the said inquisitors, whether the same be men, women or children, without any manner of difference or distinction of age or sex, save that an Indian slave being reputed of much less value than a negro, all and every person and persons possess of Indian slaves shall only pay for each Indian in proportion to half the value of what shall be rated and imposed for each negro, and no more; and for preventing all doubts and scruples that may arise, what ought to be rated and assessed on mustees, mulattoes, &c., all and every such slave who is not entirely Indian, shall be accounted and deemed as negro, and as such rated and assessed by the said assessors. And the assessors aforesaid are hereby required to meet at the house of Nathaniel Partridge, in Charlestown, or at such other house as the major part of them shall agree upon, every second Tuesday in January yearly, and every year during the continuance of this Act, and there sit, *de die in diem*, till they have indifferently and equally rated and assessed the said several sums of thirty-five thousand pounds, thirty thou-

Assessors appointed. Their duty.

Time and place of meeting.

A. D. 1716.

sand pounds, and thirty thousand pounds, herein before mentioned and intended to be hereby levied and raised on the inhabitants, as aforesaid; the first meeting of the said assessors to be on the second Tuesday in January next ensuing the ratification of this Act. And the assessment so made, fairly under their hands and seals they shall indent, expressing the names of all and every person so assessed, with the sums of money each person is assessed at, and for what particular matter or thing they be so assessed, that is to say, whether the same be for land, negro or Indian slaves, &c., opposite to the respective name of each person, and the said indenture, so signed and sealed by them, or any three of them, a copy of the same to the publick Receiver shall deliver. And the assessors aforesaid shall, on the day before they begin to make their assessment aforesaid, before any two Justices of the Peace, take the following oath:—I, A. B., do swear, that according to the best of my judgment, I will indifferently, equally and impartially rate and assess all and every person to me returned to be assessed by the inquisitors for that end appointed, according to the directions given me by this Act: So help me God.

Assessors oath.

Assessors may use discretionary power, and employ clerks.

XXV. *And be it enacted* by the authority aforesaid, That the assessors aforesaid shall not be tyed up so strictly to the returns of the inquisitors, but that they may have liberty to proceed according to the best of their own knowledge or information; and the assessors aforesaid to be allowed one or more clerk or clerks, to dispatch their business aforesaid, and to draw an order on the publick Receiver for such sums of money as they shall think fit to reward them with, who is hereby impowered to pay the same.

Any person's tax which is under 4 royals, to be struck off the tax list.

XXVI. *And be it further enacted* by the authority aforesaid, That if any person or persons' real or personal estate is of so small a value that, by the inquisitors return, the said assessors find such person's tax will not amount to four royals per annum, in such case they are hereby directed not to assess the same, but strike him out of the said return; any thing in this Act to the contrary notwithstanding.

Assessors dying or quitting.

XXVII. *And be it further enacted* by the authority aforesaid, That if any of the said assessors shall happen to die, go off this Province, or refuse to act in their business aforesaid, then and in such case it shall and may be lawful to and for the assessors aforesaid, or the majority of them, to nominate and choose one or more assessor or assessors, in the room and stead of him or them so dying, going off, or refusing to act, which assessor or assessors so chosen shall have the same powers and authorities and be under the same directions and penalties as other assessors herein before appointed.

The Assessors are to send to the inquisitors yearly the amount of the assessment, of which they are to give notice to the inhabitants.

XXVIII. *And be it further enacted* by the authority aforesaid, That the assessors aforesaid shall, some time before the second Tuesday in February yearly and every year during the continuance of this Act, send to every set or number of inquisitors in each of the several aforementioned parishes or precincts, a list of all and every the persons living within the said inquisitors' respective parishes or precincts, mentioning the sum of money they are rated and assessed at, and for what they are so rated, with the time and place appointed for payment thereof, and with such other proper additions to the list aforesaid as they shall see occasion; and every of the aforesaid number of inquisitors, or any three of them, is hereby required on receipt thereof to post the said list of assessments of their respective parishes at the church door of each parish, and also of every meeting-house, and at such other publick places as they shall think fit.

XXIX. *And be it further enacted* by the authority aforesaid, That every person assessed and rated as aforesaid, shall pay to the commissioners

herein after for that purpose named, in Charlestown, at such house as they shall think fit to meet at, his assessment, on every second Tuesday in March yearly, and every year during the continuance of this Act, or within ten days after such respective Tuesday at farthest; the first payment to be made on or before the second Tuesday in March ensuing the ratification of this Act. And in case any person shall refuse or neglect to pay his, her or their tax, at or within the respective times herein before limited and appointed, the said commissioners, or any five of them, are hereby required within six days after the days of payment respectively, to return the names of every person neglecting as aforesaid to the Chief Justice of this Province for the time being, together with the account of the sum of money each person is assessed at, requesting him to issue forth execution against the goods of the person who has so made default in paying his said tax; and the said Chief Justice is hereby required and ordered forthwith to issue forth a *feri facias*, directed to the Marshal of the Court of Common Pleas, requiring him without any delay to levy the said debt on the goods and chattles of such defaulter; and the Marshal is hereby required to sell and dispose of such goods at publick vendue accordingly, in twenty-four hours after such goods are brought to Charlestown, and the moneys thereby arising forthwith to pay into the hands of the commissioners for receiving the aforesaid tax, that is to say, so much thereof as is mentioned in the said execution, returning the overplus to the said defaulter, after deducting such reasonable charges as shall be thought fit to be allowed by the said Chief Justice. And that all deeds of gift, mortgages and assignments of the goods and chattles of such defaulter, made to any person or persons with an intent to evade paying the said tax, be and are hereby deemed as fraudulent, and ipso facto null and void to all intents and purposes whatsoever. And in case the Marshal shall return a *Nulla bona* on the said *feri facias*, then the said Chief Justice is hereby required forthwith to issue a *Capias ad satisfaciendum* against the body of such defaulter, for the said sum, requiring him, the said Marshal, to take the person in execution and him in safe custody to detain and keep until the said commissioners for receiving the said tax, or any five of them, shall certify to him the said Marshal that the said person has paid the money he was committed for, and that he may discharge him paying his fees. And if any person or persons after he is assessed, shall be about to depart out of this Province, before the respective days of payment herein before appointed, he, she, or they, before they go off, shall pay to the said commissioners of the tax, their assessment, or give security for the same to the said commissioners, or for want thereof shall be prosecuted by the said commissioners as persons which neglect to pay at the days of payment; any thing in this Act contained to the contrary notwithstanding.

XXX. And be it further enacted by the authority aforesaid, That every person, as well assessors as others, who shall have reason to believe he is over-rated for his interest in Charlestown, may, at the time of the meeting of the assessors aforesaid, have liberty to swear off what he, she or they shall be over-rated, and the assessors shall have power, and are hereby impowered, to administer the oaths accordingly.

XXXI. And be it enacted by the authority aforesaid, That in assessing of the sum of ninety-five thousand pounds aforesaid, if any fraction arise less than the fourth part of a penny, the assessors may raise and assess such fractions, notwithstanding the same may arise to more than ninety-five thousand pounds.

A. D. 1716.

Names of persons neglecting to pay, to be returned to the Chief Justice; who must thereon issue *feri facias*.

All evasive conveyances to be made void.

Persons quitting the Province after being taxed.

Persons over-rated may swear off.

A. D. 1716.

Orders drawn
by the commis-
sioners on the
public Receiver,
to bear interest
at 10 per cent.

XXXII. *And be it further enacted* by the authority aforesaid, That all and every order and orders for any sum and sums of money drawn or to be drawn on or before the first day of September next ensuing, on the publick Receiver, by the commissioners appointed for stating and adjusting the publick accounts, by virtue of an Act of the General Assembly, entituled an Act to raise the sum of thirty thousand pounds, of and from the estates real and personal of the inhabitants of this Province, in order to sink the like sum of thirty thousand pounds in bills of credit, stamped for the more speedy carrying on and defraying the charges of the war against our Indian enemies and their confederates, &c., ratified the 27th day of August, one thousand seven hundred and fifteen, shall carry interest at and after the rate of ten pounds per cent. per annum, from the first day of January, one thousand seven hundred and fifteen-sixteen, until the same are paid off and discharged. And all and every person and persons possessed of any such order or orders, shall be and is hereby entitled to have and receive the several sums of moneys thereon due, principal and interest, at such days and times and in such manner and form as is hereinafter directed.

Order of pay-
ment to be
determined by
drawing lots
out of a ballot
box.

XXXIII. *And be it enacted* by the authority aforesaid, That the several orders already issued or to be issued by the commissioners aforesaid, for adjusting the publick accounts, on or before the third day of August now next ensuing, shall be divided into two distinct classes or courses of payments, and the said commissioners of accounts are therefore hereby ordered and required to make out, in several distinct small pieces of paper, the number of each order and the sum therein mentioned, and seal up the same, and on the third day of August now next ensuing, between the hours of nine and eleven in the morning of the same day, the said commissioners, or any two of them, and the publick Receiver, shall meet at the house of Madam Burtels, or where they shall think fit, in Charlestown, and then and there shall open the same, and put the said numbers into a balloting box, in the presence of the said publick Receiver, and shall at the same time cause the same to be drawn out one by one, by a child between the age of six and nine years, or thereabouts, until the sums so drawn out shall amount to the sum of thirteen thousand three hundred and thirty-five pounds, and shall then set down the number of each order and the sums therein mentioned, as the same shall arise, under the title of the orders in the first course of payment, &c.; and when the said orders so drawn forth shall amount to the sum of thirteen thousand three hundred and thirty-five pounds, they shall make out a list of the remaining orders, under the title of the orders in the second course of payment. But in case the same cannot be performed in one day, the said commissioners of accounts and publick Receiver shall cause the said box to be locked up, and adjourn till the next day, and then open the same and proceed as above till the whole numbers are compleatly drawn out as aforesaid; which said balloting box, with three several locks and keys, the one for the publick Receiver and the other for two of the said commissioners of accounts, shall be procured by the said publick Receiver, at the charge of the publick. And the said publick Receiver shall make true copies of the said lists of first and second course of payment of the said orders, and cause the same to be subscribed by himself and two of the said commissioners of accounts, and affix the same, one at the publick watch-house in Charlestown and others at the parish churches or other noted places in the country, and one to be lodged in the Secretary's office, to the end that all persons concerned may have due notice thereof.

XXXIV. *And be it further enacted* by the authority aforesaid, That the said tax or sum of thirty-five thousand pounds, hereby first intended to be assessed, raised and levied for this present year one thousand seven hundred and sixteen, be paid and applied by the commissioners herein after for that purpose named, in manner following, (that is to say,) fifteen thousand pounds, part of the said tax or sum of thirty-five thousand pounds, towards paying off, discharging and cancelling the like sum of fifteen thousand pounds, due and payable on the orders mentioned in the first course of payment, including the interest of the same; the like sum of fifteen thousand pounds, part of the aforesaid tax or sum of thirty-five thousand pounds, towards cancelling and sinking the bills of credit for fifteen thousand pounds herein before directed to be stamped by virtue of this Act, for the paying off and discharging the officers, soldiers, and other incident charges of the war; and the sum of five thousand pounds, other remaining part of the tax or sum of thirty-five thousand pounds, to be paid into the hands of the managers or commissioners appointed to carry on and manage the Indian trade, by virtue of an Act of this present General Assembly entitled An Act for the better regulation of the Indian trade, by empowering the commissioners therein named to manage the same for the sole use, benefit and behoof of the publick.

A. D. 1716.

Application of
£35,000, to be
raised for the
year 1716.

XXXV. *And be it further enacted* by the authority aforesaid, That the said sum of thirty thousand pounds, hereby intended to be raised for the year one thousand seven hundred and seventeen, shall be paid and applied by the said commissioners, for that purpose named, towards cancelling and sinking the orders and the interest thereon which shall become due by the second course of payment; and the residue, if any be, towards cancelling and sinking the bills of credit of thirty thousand pounds stamp and made by virtue of the aforesaid Act of the twenty-seventh of August, one thousand seven hundred and fifteen.

Application of
£30,000 for the
year 1717.

XXXVI. *And be it further enacted* by the authority aforesaid, That the said tax or sum of thirty thousand pounds, hereby intended to be raised for the year one thousand seven hundred and eighteen, shall be paid and applied, by the commissioners for that purpose named, toward sinking the remaining part of the said bills of credit of thirty thousand pounds stamped and made by virtue of the aforesaid Act of the twenty-seventh of August, one thousand seven hundred and fifteen; and also towards cancelling and sinking the bills of credit of five thousand pounds, stamped and made by virtue of the aforesaid Act of the twenty-fourth of March, one thousand seven hundred and fifteen.

Application of
£30,000 for the
year 1718.

XXXVII. *And be it further enacted* by the authority aforesaid, That Colonel Thomas Broughton, Colonel George Logan, Richard Beresford, Esq., Arthur Middleton, Esq., Ralph Izard, Esq., Colonel William Rhett, Landgrave Joseph Morton, Captain Christopher Wilkinson, and Mr. Benjamin Godin, be and are hereby appointed commissioners for receiving the said tax or sum of ninety-five thousand pounds, hereby intended to be raised, and for applying of the same towards sinking the said orders and cancelling the bills of credit, and for payment of the sum of five thousand pounds into the hands of the managers or commissioners of the Indian trade, aforesaid, as herein before is directed, and to no other uses, intents or purposes whatsoever, and shall begin to meet at the house of Mr. Nathaniel Partridge, in Charlestown, or such other house as the major part of them shall agree upon, on the second Tuesday in March yearly, and every year during the continuance of this Act, and there sit, *de die in diem*, or as often as need be, to receive the said tax, and to dispose and apply the same in manner as herein before is directed. And the said

Commissioners
appointed for
receiving and
applying 95,000
pounds.

A. D. 1716.

commissioners shall have each of them (paid by the publick Receiver for the time being, out of the public treasury) the sum of ten shillings per diem for every day they shall sit to transact the business required of them by this Act, and to be allowed a secretary, at ten shillings per diem, and a messenger, at five shillings, to be paid as aforesaid.

Commissioners
dying or refus-
ing to act.

XXXVIII. *And be it further enacted* by the authority aforesaid, That in case the commissioners aforesaid, or any of them, shall happen to die, go off, or refuse to act, the surviving commissioners, or any five of them, shall have power to nominate and choose another commissioner or commissioners in the room and stead of him or them so dying, going off, or refusing to act, which said commissioner or commissioners so chosen, shall have the same powers and authorities and be under the same penalties as the other commissioners herein before respectively named; and the said commissioners to observe the same method in the cancelling the said orders and bills, as is prescribed by an Act for raising the sum of fifty-two thousand pounds, by stamping and establishing new bills of credit and putting the same out to interest, in order to call in and sink the former bills of credit, and thereby giving a further encouragement to trade and commerce, ratified the seventh day of June, one thousand seven hundred and twelve.

Penalty on offi-
cers for neglect
of duty.

XXXIX. *And be it further enacted* by the authority aforesaid, That every inquisitor, every justice of the peace, every assessor, the publick receiver, and every constable, which shall neglect or refuse to do and perform that charge and trust which is hereby to them given and committed, shall for each neglect forfeit the sum of fifty pounds, to be recovered in any court of record in this Province, by bill, plaint or information, to be brought in the name of the publick receiver, (unless in case of his own default,) in which no protection shall be allowed; one half to the publick receiver, for the use of the publick, and the other half to him or them that will sue for the same.

This Act to
continue in
force till £95,
000 be raised.

XL. *And be it further enacted* by the authority aforesaid, That this Act and every thing therein contained shall and do remain and continue in full force until the sum of Ninety-five Thousand Pounds shall be duely raised by several payments, according to the directions of this Act, and no longer, any thing in this Act or any other Act to the contrary notwithstanding.

*Read three times and ratified in open Assembly,
this 30th day of June, 1716.*

ROBERT DANIELL,
THOMAS SMITH,
CHARLES HART,
GEORGE LOGAN,
NICHOLAS TROTT,
SAM. EVELEIGH.

NOTE.—Repealed by section 37 of the Act of February 20, 1718-9, for raising the sum of Seventy Thousand Pounds, &c.

A. D. 1716.

AN ACT FOR THE BETTER REGULATION OF THE INDIAN TRADE, BY IMPOWERING THE COMMISSIONERS THEREIN NAMED, TO MANAGE THE SAME FOR THE SOLE USE, BENEFIT AND BEHOOF OF THE PUBLICK.

*No. 360.

(The first leaf or two pages of this Act, in the original manuscript, are wanting.)

And be it further enacted by the authority aforesaid, That the commissioners aforesaid and their successors, shall be one body politick and corporate, by the name of the Commissioners for carrying on a trade with the Indians, for the sole use, benefit and behoof of the publick, and by that name shall have perpetual succession, and a common seal, and that they and their successors, by the name aforesaid, shall be able and capable in the law, to have, purchase, receive and retain to them, and their successors, in trust for the publick of this Province, any lands, rents, tenements and hereditaments, goods, wares and merchandizes, of what kind, nature or quality soever, and also to sell, grant, demise, alien and dispose of the same for the use aforesaid, and by that name to sue and implead, be sued and impleaded, answer and be answered, in any Court of Record, or any other place whatsoever, and to do and execute all and singular other matters and things, by the name aforesaid, that to them shall or may appertain; to be subject nevertheless to such instructions, limitations and restrictions, as shall from time to time be given them by the Commons House of Assembly of this Province.

Commissioners
appointed.

And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said commissioners or the major part of them, and their successors, to make reasonable constitutions, orders or instructions from time to time, for the good government of the said trade with the Indians, and of their factors, agents, servants and others concerned in the same, and to inflict reasonable penalties and punishments, by fines or otherwise, for any breach or breaches thereof, and to levy such fines to the use of the publick stock of the said trade.

May enact reg-
ulations for the
conduct of the
Indian trade.

And be it further enacted by the authority aforesaid, That the said commissioners or the major part of them, are hereby empowered to choose and agree with so many, and such agents, factors, and servants as they shall think fit, and to place and dispose of them to such parts and places in this Province as is hereafter directed, or as the said commissioners shall be ordered by the Commons House of Assembly; and such persons so chosen and placed, shall have the sole and whole right and power to trade with the Indians in amity with this government, under such provisions, instructions and restrictions as they shall from time to time receive from the said commissioners or the major part of them; and if any person or persons whatsoever, of what degree or quality soever they be, within this government, other than such as is afore directed, shall directly or indirectly visit, frequent, trade or traffick, to or with any Indian or Indians in amity with this government, contrary to the true intent and meaning hereof, all and every such offender and offenders, shall forfeit the sum of five hundred pounds, and all and singular the goods, wares, merchandizes, liquors, slaves, furs and skins, either carried to, or bartered or sold to, or brought from any of the said Indians, to be seized by warrant under the hands and common seal of the said commissioners or the major part of them, and to be recovered in any Court of Record in this Province, and to be disposed of for the use of the publick stock of the

May employ
agents and fac-
tors.

A. D. 1716.

Duty of the
Cashier.

said trade, and all charges of prosecutions, and other charges at law or equity, is to be paid out of the said publick stock.

And be it further enacted by the authority aforesaid, That the person whom the said commissioners, or the major part of them, shall from among themselves, nominate and appoint Cashier of the Indian trade, shall receive all such sums of money as shall be appropriated by any Act of Assembly of this Province, for the carrying on the trade with the Indians, and shall pay all such sums of money as he shall be ordered by the said commissioners for payment of the wages or salaries, or for any other charge arising or becoming due, on account of the said trade, and also shall pay unto each of the said commissioners, a salary of one hundred and fifty pounds each per annum, to be paid to each of them by equal quarterly payments, in lieu of all manner of fees, perquisites or demands whatsoever.

Pay of the
Cashier.To give bond
in £4000.

And be it further enacted by the authority aforesaid, That the person nominated by the commissioners before by this Act appointed, to be their cashier, shall for his care, pains, trouble and attendance, in the due execution of his said office, be allowed and paid out of the stock of the said trade, the sum of thirty pounds currant money, yearly, over and above his salary as a commissioner, and the said cashier shall enter into bond, to the rest of the said commissioners, with two good and sufficient securities, in the penal sum of four thousand pounds, for the faithful performance and due execution of his trust and office, and for a security to the said commissioners for the money by them so deposited in the hands of the said cashier.

Journal of pro-
ceedings to be
kept.

And be it further enacted by the authority aforesaid, That the said commissioners shall lay a fair journal of all their proceedings, before the House of Commons, as often as by the said House they shall be thereunto required, together with the present state of the Indian trade, to be perused by the members of the said House.

The trade to be
carried on at
three places.

And be it further enacted by the authority aforesaid, That the trade aforesaid, shall be carried on and restrained to the three several factories or places following, that is to say, at the Fort now at the Savano Town; at another, to be built by the publick, at the Congarees; and a third at some place to be appointed by the said commissioners at Wineau; and it shall be lawful upon any emergent occasion, or when it is ordered and directed by the Commons House of Assembly, for the said Commissioners, or the major part of them, to order and direct any of their factors or servants, to carry any of the goods, wares or merchandizes belonging to the said factories, to any Indian nation whatsoever, and dispose of the same, any thing herein to the contrary thereof, in any wise notwithstanding.

The Governour
to be allowed
£200 per
annum.

And be it further enacted by the authority aforesaid, That the commissioners aforesaid, or the major part of them, shall draw an order on the Publick Receiver, to pay unto the Governour or Commander-in-chief of this Province, the sum of two hundred pounds per annum, to be paid quarterly, at equal payments, and to commence the day of the ratification of this Act, in consideration of his countenancing and assisting the commissioners aforesaid, and all other persons concerned, in the execution of this Act, and in lieu of all Indian presents, or any other demands upon the Indians whatsoever.

Two former
Acts repealed.

And be it further enacted, by the authority aforesaid, That one Act of Assembly of this Province, entituled, an Act for regulating the Indian trade, and making it safe and beneficial to the publick, and for the preventing the abuses committed by the Indian traders amongst the Indians; ratified in open Assembly, the seventh day of June, 1712, and one other

Act of Assembly, entitled, an Act to oblige those traders that come from Virginia and other neighboring Colonies, to trade with the Indians and white persons living within this Province, &c., ratified in open Assembly the twenty eighth day of June, 1711, and every clause, article and sentence, and all and every word, matter and thing contained in the said two Acts, be from henceforth, repealed, annulled, revoked, and forever made void, any thing in the said Acts to the contrary whatever, in any wise notwithstanding.

A. D. 1716.

And be it further enacted by the authority aforesaid, That the Governour for the time being, at the day of the ratification of this Act, shall quit claim to all Indian presents of what kind or value soever, for ever, excepting such presents that shall be made by any Indians, now in enmity with us, which they shall make the Governour, upon their first making peace with us, and reserving all skins, slaves and other effects, that might belong to the traders, or any inhabitants of this Province, and by the articles of peace, to be delivered up, which said goods, &c., shall be delivered to the proper owners; and all Indian presents from the ratification of this Act, shall be, and belong to the publick, and shall be received by the Governour, and by him or his order, delivered to the commissioners herein named, or their lawful successors, their agents, factors, or servants for the time being, who are hereby required and impowered to receive from the Indians all such voluntary presents as they, after the ratification of this Act, shall be inclined to give the Governour or Government of this Province, as a mark of their obedience, amity and friendship with this government, and the presents so received as aforesaid shall be appropriated to, and for the sole use, benefit and behoof of the publick, by the commissioners aforesaid, or their successors, who are hereby authorized, impowered and required, out of the profits of the publick stock of the said trade, to make suitable returns to the Indians, as a mark of the mutual friendship between them and this Government, for any sum or sums of money, not exceeding one half of the value of the said present or presents; and if the Governour for the time being, or any of his successors, or any other person or persons whatsoever, for his or their use, or any other person or persons whomsoever, other than the commissioners herein named, or their lawful successors, or their several agents, factors or servants, shall after the ratification of this Act, receive and detain any Indian presents in whole or in part, he or they so doing, for each Indian present, or part of a present so received or detained from the publick, shall forfeit the sum of two hundred pounds, currant money of this Province, to be recovered and disposed of as hereafter is directed by this Act, and upon proof thereof, made by two sufficient evidences before the House of Commons, the commissioners herein named, or their lawful successors, or any one of his Majesty's Justices of the Peace within this Province, and the same certified by an order from the House of Commons, or the said Commissioners, or by any two of them, to the Publick Receiver, it shall be lawful for him, and he is hereby commanded and required, to stop the annual or quarterly salary allowed the Governour by this Act, until such time as the Governour so receiving or detaining such presents, or any part thereof, shall deliver every individual part of the present to the Publick Receiver, which shall be made appear to the Commons House of Assembly.

The Governour
to receive no
Indian presents

Unless for the
use of the pub-
lick.

And be it further enacted by the authority aforesaid, That this Act, and every thing therein contained, shall continue in force for the full term and space of two years, from and immediately after the ratification of the

To continue
two years.

A. D. 1716. same, and from thence to the end of the next session of the General Assembly after, and no longer.

*Read three times and ratified in open Assembly,
the 30th day of June, 1716.*

ROBERT DANIELL,
CHARLES HART,
GEORGE LOGAN,
NICHOLAS TROTT,
SAMUEL EVELEIGH.

NOTE.—Continued till 30th June, 1723, by a continuing Act of December 11, 1717, but repealed by the Proprietors, July 22, 1718. See on the same subject, Act of March 20, 1718–9 and Act of September 19, 1721; Act of February 23, 1722, which is repealed by Act of April 17, 1735. Continued for a year by Act of April 30, 1726, expired.

No. 361. *AN Additional ACT* TO AN ACT TO PREVENT DECEITS IN SELLING OF BEEF, PORK, PITCH, TAR, ROSIN AND TURPENTINE.

(Ratified June 30, 1716, to continue till December 18, 1719. Continued by the reviving and continuing Act of February 12, 1719–20, Section 1. Expired. The original Act not now to be found.)

No. 362. *AN ACT* TO APPOINT A PRESS MASTER, AND LAY A PENALTY UPON ANY PERSON OR PERSONS THAT SHALL REFUSE, UPON OATH, TO APPRAISE SUCH GOODS, AND ALL OTHER OTHER NECESSARIES AS SHALL BE IMPRESSED FOR THE SERVICE OF THE PUBLICK.

WHEREAS, it is found necessary that a Press Master be appointed to impress goods and all other necessities for the service of the Province,

A Press Master
to be appointed
at £3 per
month.

I. *Therefore be it enacted*, by his Excellency John Lord Carteret, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the General Assembly, now met at Charlestown, for the South and West part of the said Province, That it shall and may be lawful for the Governour for the time being, and he is hereby empowered to appoint a Press Master, and him to displace, and to appoint another in his room, at pleasure, and it shall and may be lawful for such Press Master to impress, by a warrant under the hand and seal of the Governour (by and with the consent of the Council) for the service of the publick, all and every manner of necessities for carrying on the war, that any person or persons have power to impress by any Act now in force in this Province; and for an encouragement to such Press Master, be it enacted by the authority aforesaid, that there shall be paid him out of the publick Treasury, by the Publick Receiver of this Province, three pounds for every month he shall continue in the said service.

II. *And whereas* divers goods, wares, merchandizes and other necessities have already been impressed by order of the present Deputy Governour for the use of the publick, *Be it enacted* by the authority aforesaid, That he, and the person that impressed them, be, and are hereby indemnified from any damage that might accrue to them for having

Deputy Governour
indemnified for having
already im-
pressed goods.

impressed the said goods without any express law empowering them to do the same. A. D. 1716.

III. *And whereas* there may be necessities wanting for the publick service, at some times when the Council is not sitting, *Be it therefore enacted* The Governour by the authority aforesaid, That the Governour shall have power and he may impress is hereby empowered to impress any boats, pettiagoes, horses and slaves, boats, horses and slaves and without the consent of his Council, and any quantity of goods and other goods for the necessities for the service of the war, the value whereof, shall not amount to above the sum of one hundred pounds, any thing in this Act heretofore £100. contained to the contrary notwithstanding.

IV. *And whereas* it may be necessary sometimes that such slaves, horses, provisions, pettiagoes, canoes, goods, wares and merchandizes, should be valued by proper persons, *Therefore be it enacted* by the authority aforesaid, That if any person or persons whatsoever shall refuse or neglect, when required by the Press Master, or any other person or persons that are empowered to impress slaves, horses or any other necessities as above said, by any Act now in force in this Province, to value, upon oath before the next Justice of the Peace, all such slaves, horses, provisions, pettiagoes, canoes, goods, wares and merchandizes so impressed as aforesaid, that then and in such cases, such person or persons so refusing or neglecting, shall forfeit the sum of ten pounds, to be levied and recovered after the same manner and method as the forfeiture mentioned in the next clause of this Act is directed and appointed. Goods impress- ed to be valued.

V. *And be it further enacted*, by the authority aforesaid, That if any person, who shall impress any thing or things whatsoever, for the service of the war, and that does not directly and immediately go before the proper persons appointed by law, to appraise the same, every such person who shall refuse or neglect so to do, shall forfeit and pay the sum of ten pounds, to the Pay Master of the army, for the use of the publick, to be levied by a warrant of the next Justice of the Peace, of the neighborhood, under his hand and seal, by distress and sale of the offender's goods, rendering the overplus to the party, after deduction of reasonable charges, in selling and taking the same. Penalty.

VI. *And be it further enacted* by the authority aforesaid, That this Act shall continue and be in force till the twentieth day of November next following the ratification hereof, and no longer.

*Read three times and ratified in open Assembly,
this 30th day of June, 1716.*

ROBERT DANIELL,
THOMAS SMITH,
CHARLES HART,
GEORGE LOGAN,
NICHOLAS TROTT,
SAMUEL EVELEIGH.

AN ACT FOR REVIVING AND CONTINUING THE SEVERAL ACTS THEREIN No. 363.
MENTIONED, WHICH ARE EXPIRED OR NEAR EXPIRING. (*Viz: Nos. 295,
303, 340, 341, and T. A. No. 14, continued for two years.*)

WHEREAS, divers of our temporary laws, which by experience have been found useful and beneficial to the publick, are already expired, and
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A. D. 1716.

others near expiring, therefore for the reviving and continuing the same, *Be it enacted* by his Excellency John Lord Cartaret, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the south and west part of this Province, and by the authority of the same, That one Act entituled, an Act for settling a salary on the Publick Receiver, ratified in open Assembly the first day of March, one thousand seven hundred and ten-eleven; and one other Act entituled, an Act for the encouragement of Trade and Navigation, by building and owning of ships and vessels by the inhabitants of this Province, and others, and encouraging Artificers to come into and build the same, ratified in open Assembly, the twenty eighth day of June, one thousand seven hundred and eleven; and one other Act entituled, an Act for the keeping and maintaining of a Watch and good order in Charlestown, ratified in open Assembly, the eighteenth day of December, one thousand seven hundred and thirteen; and one other Act entituled, an Act to settle a Guard in Johnson's Fort, on Windmill Point, ratified the said eighteenth day of December, one thousand seven hundred and thirteen; and one other Act entituled, an Act for the more speedy commencement and prosecution of suits of law in the Court of Common Pleas in this Province, ratified the said eighteenth day of December, one thousand seven hundred and thirteen; are hereby declared revived, continued and enacted to be of full force for and during, and unto the full term and time of two years after the ratification of this Act, and from thence to the end of the first session of the next General Assembly, and no longer.

*Read three times and ratified in open Assembly,
the 30th day of June, 1716.*

ROBERT DANIELL,
THOMAS SMITH,
CHARLES HART,
GEORGE LOGAN,
NICHOLAS TROTT,
SAMUEL EVELEIGH.

No. 364. *AN ACT TO IMPOWER THE COMMISSIONERS APPOINTED TO STAMP FIFTEEN THOUSAND POUNDS IN BILLS OF CREDIT, TO PAY FOR THIRTY TWO WHITE SERVANTS, PURCHASED BY THE HONORABLE THE GOVERNOUR, TO BE EMPLOYED IN DEFENDING THIS PROVINCE AGAINST OUR ENEMIES, AS ALSO TO PAY FOR THEIR MAINTENANCE BEFORE THEY WERE DELIVERED INTO THE GOVERNOUR'S POSSESSION.*

WHEREAS, we have still occasion to raise forces to prosecute the war against our Indian enemies,

Mr. T. Dean to
be paid £960
for 32 white
servants.

I. Be it therefore enacted, by his Excellency John Lord Carteret, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province of Carolina, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown, for the South and West part of this Province, and by the authority of the same, That the commissioners appointed to stamp in bills of credit, the

sum of Fifteen Thousand Pounds, do pay unto Mr. Samuel Dean the sum of £960 for thirty-two white servants, bought by the Honorable the Governor from the said Samuel Dean, to be employed as soldiers in defending this Province against our enemies, and the sum of forty pounds more for his charge in maintaining them, before delivered into the hands of the Governour.

A. D. 1716.

II. *And be it further enacted* by the authority aforesaid, for an encouragement to the servants aforesaid, That such of them as distinguish themselves by their valour, bravery and obedience, which shall be made appear by a certificate from the officer or officers whom they have served under, unto the General Assembly, (who are hereby declared judges of the same,) shall be servants for no longer than four years, notwithstanding their indentures run for seven, and their indentures shall be delivered up to them accordingly.

Term of servitude abridged to 4 years for those who behave well.

IV. *And be it further enacted* by the authority aforesaid, That if any of the said white servants, at any time after their being put into the publick service, shall happen to mutiny or desert, they shall be subject and liable to the same pains and penalties as are usually inflicted on soldiers, in case of mutiny or desertion.

Penalty for mutiny or desertion.

V. *And be it further enacted* by the authority aforesaid, That it shall and may be lawful for the House of Commons, and they are hereby empowered to make sale of the servants aforesaid, at any time when they shall think fit, and to pay the money into the hands of the Publick Receiver, for the use of the publick.

They may be resold.

*Read three times and ratified in open Assembly,
the 4th day of August, 1716.*

ROBERT DANIELL,
THOMAS SMITH,
CHARLES HART,
GEORGE LOGAN,
NICHOLAS TROTT,
SAM. EVELEIGH.

AN ACT TO KEEP INVIOULATE AND PRESERVE THE FREEDOM OF ELECTIONS, AND APPOINT WHO SHALL BE DEEMED AND ADJUDGED CAPABLE OF CHOOSING OR BEING CHOSEN MEMBERS OF THE COMMONS HOUSE OF ASSEMBLY.

No 365.

FORASMUCH as the far greatest part of the inhabitants in their respective counties of this Province, are at a considerable distance from the stated places of election, whereby they are at great expense of time and money, besides all other hazards, in coming to choose members of the Commons House of Assembly: And whereas the several counties of this Province are divided into distinct parishes, so that in them elections for members of the Commons House of Assembly may be managed so as in a great measure to prevent the bad effects of the present manner of electing the said members, which being duly considered by several Grand Juries of this Province, they have presented the same to be a great grievance, and have desired that it might be redressed.

Preamble.

A. D. 1716.

I. *Be it therefore enacted*, by his Excellency John Lord Cartaret, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown, for the South and West part of this Province, and by the authority of the same, That from and after the dissolution of this present Assembly, the persons to serve as members in any succeeding Commons House of Assembly, shall be elected and chosen after the manner and at the places appointed by this Act.

Elections to
continue but
two days.

Church-wardens
to be
managers.

II. *And be it further enacted* by the authority aforesaid, That the elections for members of the Commons House of Assembly in the distinct parishes hereafter named, shall not continue longer than two days at farthest, and that the said election after publication made of the respective writs, shall begin at sun rising each day, and end at sun sitting, and that in each parish the church-warden or church-wardens, (who are hereby authorized and appointed to make publication of the writs for and to manage such elections,) upon the closing of the poll, at convenient hours in the time of the aforesaid election, shall put all the votes then delivered in and rolled up by the electors, into some box, glass or paper, sealed up with the seals of any two or more of the electors that are then present, and upon the opening of the poll, shall unseal the said box, glass or paper, in order to proceed in the said election.

Electors names
to be enrolled.

III. And for the preventing of frauds in all elections, as much as possible, *It is hereby enacted* by the authority aforesaid, That the names of the electors for members of the Commons House of Assembly, shall be fairly entered in a book or roll for that purpose provided by the church-warden or church-wardens of each parish, to prevent any person's voting twice at the same election, and that if in voting, two or more papers with persons names written thereon for members of Assembly, be (upon the scrutiny) found rolled up together, or more persons names be found written on any paper than ought to be voted for (to which paper the elector shall not be obliged to subscribe his name) all and every such paper and papers shall be invalid and of no effect; and that those persons who after all the papers and votes are delivered in and entered as aforesaid, shall be found upon the scrutiny made, to have the majority of the votes, are and shall be deemed and declared to be members of the succeeding Commons House of Assembly.

Notice to be
given within 7
days, to the
persons elected

IV. *And be it further enacted* by the authority aforesaid, That the said church-warden or church-wardens appointed in each parish to manage the elections aforesaid, shall within seven days after the scrutiny is made, give publick notice in writing at the church door, or some other publick place in their respective parishes, to every person or persons so elected, that the inhabitants of the said parish have made choice of him or them to serve as their representative or representatives in the next succeeding Commons House of Assembly, under the penalty of one hundred pounds, current money of this Province, for his default or neglect therein, to be paid to him or them that shall sue for the same, to be recovered in such manner and form as hereafter in this Act is directed.

Charlestown to
elect four
members.

V. *And be it further enacted* by the authority aforesaid, That the inhabitants of the parish of St. Philips, Charlestown, qualified to vote for members of Assembly, as hereafter in this Act is directed, shall upon the day of election (according to the Governour's and Council's precept, for the time being,) proceed to elect four persons to represent

the inhabitants of the said parish, and when the scrutiny is made, the said four persons who have the majority of votes, shall be and are hereby declared and adjudged to be the true representatives for the said parish, and the said church-warden or church-wardens, shall immediately after the election is finished make a scrutiny into the persons names who have the said majority of votes, and fix up the said names publicly in writing at the place of the said election.

A. D. 1716.

VI. *And be it further enacted* by the authority aforesaid, That the inhabitants of the following parishes, that is to say, those of Christ Church, those of St. Johns, those of St. Andrews, and those of St. James Goose Creek, in Berkley county, qualified to vote for members of the Commons House of Assembly, as is in this Act hereafter limited and appointed, shall meet at the respective Churches of the parishes whereof they are inhabitants, and each person so qualified, shall there give in his vote, that is to say, those of the parish of Christ Church for two persons; those of the parish of St. Johns for three persons; those of the parish of St. Andrews for four persons; and those of the parish of St. James Goose Creek for three persons, to serve in the said Common's House of Assembly for that parish of which he is an inhabitant, after the same order, manner, and method as the inhabitants of St. Philips in Charlestown are appointed and directed by this Act; and the several church-wardens of each parish above named for the time being, or one of them, are hereby impowered and required to order, manage and publish the election, after the same manner and method as the church-wardens of St. Philips aforesaid are appointed and directed by this Act, under the like fines and penalties the said church-wardens of St. Philips are by the same Act liable to.

Number of
members for
each of the
parishes.

VII. *And whereas* the bounds and limits of the several parishes of St. Thomas and St. Dennis, in Berkley county, are not yet fully and clearly ascertained, the said parish of St. Dennis lying in the midst of the bounds, and designed only for the use of the French settlements, which at present are mixed with English; *Be it therefore enacted* by the authority aforesaid, That the inhabitants of the said parishes qualified to vote for members of the Commons House of Assembly, as is in this Act hereafter limited and appointed, shall meet at the parish church of St. Thomas, and each person so qualified shall there give in his vote for three persons to serve in the said Commons House of Assembly, after the same order, manner and method as the inhabitants of St. Philip's, in Charlestown, are appointed and directed by this Act; and the church-wardens of the said parish of St. Thomas, or either of them, for the time being, are hereby impowered and required to order, manage and publish the election, after the same manner and method as the church-wardens of St. Philip's aforesaid are appointed and directed by this Act, under the like fines and penalties the said church-wardens of St. Philip's are by the same Act liable to.

The parishes of
St. Thomas &
St. Dennis to
send three
members.

VIII. *And be it further enacted* by the authority aforesaid, That the inhabitants of the parish of St. Paul and those of the parish of St. Bartholomew, in Colleton county, qualified to vote for members of the Commons House of Assembly, as is in this Act hereafter limited and appointed, shall meet at the respective churches belonging to the parish of which they are inhabitants, and each person so qualified shall there give in his vote, that is to say, those of the parish of St. Paul for four persons, and those of the parish of St. Bartholomew for three persons, to serve in the said Commons House of Assembly for that parish of which he is an inhabitant, after the same order, manner and method, as the inhabitants of St. Philip's in Charlestown are appointed and directed by this Act; and the several church-wardens of each parish above named, or one of them for the time

St. Paul four
members. St.
Bartholomew
3 members.

A. D. 1716.

being, are hereby impowered and required to order, manage and publish the election, after the same manner and method as the church-wardens of St. Philip's aforesaid are appointed and directed by this Act, under the like fines and penalties the said church-wardens of St. Philip's are by the same Act liable to.

St. Helena 3 members.

IX. *And be it further enacted* by the authority aforesaid, That the inhabitants of the parish of St. Helena in Granville county, qualified to vote for members of the Commons House of Assembly as is in this Act hereafter limited and appointed, shall meet at the parish church or some other convenient place on Port Royal Island, and each person so qualified shall there give his vote for three persons, to serve in the said Commons House of Assembly, after the same order, manner and method as the inhabitants of St. Philip's, in Charlestown, are appointed and directed by this Act; and the church-wardens of the said parish, or either of them for the time being, are hereby impowered and required to order, manage and publish the election, after the same manner and method as the church-wardens of St. Philip's aforesaid are appointed and directed by this Act, under the like fines and penalties the said church-wardens of St. Philip's are by the same Act liable to.

St. James one member.

X. *And be it further enacted* by the authority aforesaid, That the inhabitants of the parish of St. James, on Santee river, in Craven county, qualified to vote for members of the Commons House of Assembly, as is in this Act hereafter limited and appointed, shall meet at the parish church, and each person so qualified shall there give in his vote for one person, to serve in the said Commons House of Assembly, after the same order, manner and method as the inhabitants of St. Philip's in Charlestown are appointed and directed by this Act; and the church-wardens of the said parish or either of them for the time being, are hereby impowered and required to order, manage and publish the election, after the same manner and method as the church-wardens of St. Philip's aforesaid are appointed and directed by this Act, under the like fines and penalties the said church-wardens of St. Philip's are by the same Act liable to.

Provision as to St. Bartholomew and St. Helena.

XI. *And whereas* the inhabitants of several parishes have been driven from their settlements by our Indian enemies, which renders them incapable of electing members residing in those parishes, according to the tenour of this Act; *Be it therefore enacted* by the authority aforesaid, That it shall and may be lawful for the inhabitants of the parish of St. Bartholomew and St. Helena, and of all such parishes as may hereafter be deserted, to have the liberty of choosing such persons for their representatives as formerly lived in each of those parishes (provided he or they have not sold or otherwise parted with his or their interest they formerly had in those parishes, and are otherwise qualified as by this Act is directed) in such places as the Governour and Council shall appoint.

Case of deserted parishes.

XII. *And be it further enacted* by the authority aforesaid, That all such persons as formerly resided in the aforesaid deserted parishes, shall not be capable of voting for or being elected members of the Commons House of Assembly in any other parish than in such where he or they formerly resided before the Indian war, unless he or they can make it appear to the church-wardens or other persons appointed by this Act to manage elections, that he or they have sold or otherwise parted with the interest he or they formerly had in the premises aforesaid.

When settled, to be managed like the rest.

XIII. *And be it further enacted* by the authority aforesaid, That whenever and as soon as the said deserted parishes shall be resettled, that at such time their elections shall be managed and regulated in the same

manner and method as is in this Act prescribed for other parishes; any thing in this Act contained to the contrary in any wise notwithstanding. A. D. 1716.

XIV. And whereas disputes may happen to arise among some persons, at the times of the elections for members of Assembly, as to what particular parish they may belong, since the lines of the bounds and limits of the several parishes in this Province are not run out; for the prevention whereof, *It is hereby enacted* by the authority aforesaid, That within two months after the ratification of this Act, surveyors shall be appointed by the Governour for the time being, to run out the bounds and limits of the said several parishes in this Province; and that after they are so appointed for that work, they take care to perform and compleat the same with all convenient speed, under the penalty of fifty pounds for each surveyor's neglect therein, to be recovered as is hereafter directed; and such surveyor for himself and his assistance in the said work, shall be paid the sum of thirty shillings per day, out of the publick treasury, by an order under the hand of the Governour to the publick Receiver, who is hereby required to pay the same. The bounds of the several parishes to be surveyed.

XV. *And be it further enacted* by the authority aforesaid, That all writs for the several elections of members for any new Commons House of Assembly (which shall bear date at least forty days before the day appointed for the meeting of the said members, and who after elected shall meet at a time appointed by the Governour and Council, according to their discretion) shall be issued out by the Governour and Council for the time being, directed to the several person or persons appointed to manage the said elections as aforesaid, every one of whom are hereby impowered and required to execute the said writs faithfully, according to the true intent and meaning of this Act, to which every such person shall be sworn by any one justice of the peace of the county, who is hereby required to administer such oath without fee or reward. And whensoever such writ shall be issued out for electing a Representative or Representatives to serve in any new Commons House of Assembly, (which at all places where elections are appointed to be managed shall be executed upon one and the same day) publick notice in writing of all and every such writs shall be forthwith given by the several persons that are appointed by this Act to manage such elections, two Sundays before the appointed time, at the door of each parish church, or at some other publick place in the said parish; and in those parishes, precincts or counties, where a representative or representatives is or are to be elected, and have no churches erected therein, then and in such case the writs shall be published as aforesaid at every such place where the election is appointed to be managed, by some person or persons thereunto appointed by the Governour and Council, or at some noted place elsewhere, near the aforesaid place, to the intent the time and place of election may be better and more fully made known. Penalty for Surveyor's neglect.

XVI. *And be it further enacted* by the authority aforesaid, That in case there should be wanting church-wardens in any parish, to manage the said elections, then and in such case, the Governour and Council for the time being shall have power, and they are hereby impowered, to nominate and appoint two proper persons in their stead, to manage the said elections, which persons so appointed shall have the same powers and be under the same directions, fines and forfeitures, as the church-wardens aforesaid, any thing in this Act to the contrary notwithstanding. Writs to be 40 days before the session.

XVII. *And be it further enacted* by the authority aforesaid, That if any person or persons to whom any writs for the election of a member or members to serve in the Commons House of Assembly are directed, shall Members to meet at a day appointed by Governor and Council.

Public notice of elections to be given.

Substitutes for churchwardens may be chosen.

Penalty for person or persons neglecting to serve writs.

A. D. 1716.

refuse or neglect to publish and execute the same, according to the tenour of this Act, every such person shall forfeit the sum of one hundred pounds current money of this Province, to be paid to him or them that will inform and sue for the same, to be recovered in such manner and form as hereafter in this Act is directed.

Members dying
or removing,
new writs to
issue.

XVIII. *And whereas*, according to the present manner of elections for Assembly men, upon the death or absence of a member or members of the Commons House of Assembly, the persons in the several counties concerned were under an intolerable burthen to appear at the said elections; for the prevention of which for the future, *Be it enacted* by the authority aforesaid, That from and after the ratification of this Act, if any member or members hereafter chosen to serve in any new Commons House of Assembly, should die, or depart this Province, or refuse to qualify him or themselves, as hereafter in this Act is directed, then and in those cases, the said House shall in an address to the Governour and Council for the time being, desire them to issue out a new writ or writs; and the said Governour and Council shall, within forty days, on such address to them presented, issue out a writ or writs, directed as before in this Act is appointed, for choosing another person or persons to serve in the place or places of such member or members so dead, departed this Province, or who shall refuse to qualify him or themselves as aforesaid; which person or persons so chosen shall attend the said House at the meeting of the said House after such election; and the officer or officers that managed the said election shall acquaint the person or persons chosen with the same, within seven days after the said election is finished, and shall likewise, immediately after the election is finished, make a scrutiny into the persons' names and make the same publick by fixing it up in writing at the place of election, under the same fines and penalties the church wardens of St. Philip's in Charlestown, for default of not giving notice to persons elected, are by this Act liable to.

Members chosen under this Act to have like power with former ones.

XIX. *And be it further enacted* by the authority aforesaid, That all and every member and members of the Commons House of Assembly of this Province, chosen by the authority of this Act, shall have as much power and privilege, to all intents and purposes, as any member or members of the Commons House of Assembly of this Province heretofore of right had, might, could or ought to have in the said Province.

Qualifications of voters,

XX. *And whereas*, it is necessary and reasonable, that none but such persons who have an interest in this Province should be capable to elect or be elected members of the Commons House of Assembly, *Be it enacted* by the authority aforesaid, That every white man, and no other, professing the Christian religion, who hath attained to the age of one-and-twenty years, and hath been in this Province for the space of six months before the date of the writs for the election that he offers to give in his vote at, and upon his oath, (if required by the church-warden or church-wardens, or any person present qualified to vote,) be proved to be worth thirty pounds current money of this Province, shall be deemed a person qualified to vote for and may be capable of electing a representative or representatives to serve as a member or members of the Commons House of Assembly for the parish or precinct wherein he actually is resident: And that every person qualified to be elected for, and to serve as a member of the said Commons House of Assembly, shall, if required thereunto by the church-wardens as aforesaid, or any other person or persons, take his corporal oath on the holy evangelists, that he is, in his own proper person, worth five hundred pounds current money of this Province, in money, houses, goods or chattles, or that he is possessed of five hundred acres of

and members.

land in the parish wherein he is chosen as aforesaid; any act, law, statute, ordinance, custom or usage, to the contrary notwithstanding. A.D. 1716.

XXI. *And be it further enacted* by the authority aforesaid, That if any person or persons appointed by this Act to manage any election for a member or members of the Commons House of Assembly, as aforesaid, shall wittingly and knowingly admit of or take the vote of any person not qualified according to the purport of this Act, or after any vote duely delivered in at such election, shall open or suffer any person whatsoever to open any such vote before the scrutiny is begun to be made, or shall make an undue return of any person for a member of the Commons House of Assembly, each person so offending shall forfeit for each such vote taken and admitted of, opened, or suffered to be opened, as aforesaid, and for each such return, the sum of one hundred pounds, current money of this Province, to be paid to him or them that will inform and sue for the same, the said several sums of money to be recovered in such manner and form as hereafter in this Act is directed. Penalty on a admitting un-qualified votes.

XXII. *And be it further enacted* by the authority aforesaid, That all and every person and persons appointed to take votes at any election of a member or members to serve in the Commons House of Assembly as aforesaid, shall for that purpose attend at the time and place to him or them directed and set forth and declared, and attend likewise upon the said Commons House of Assembly the first two days of their sitting, (unless he or they have leave from them to depart,) to inform them of all such matters and disputes as did arise or may have arisen about the election of any member or members to serve as aforesaid, in or at any place or places where the same was or were appointed to be managed, and shall shew to the said House the list of the votes for every person returned to be representative to serve as aforesaid, or which otherwise ought to have been returned as such, (if any complaint of a false return has been made to the said Commons House of Assembly); and every person appointed to take votes as aforesaid, who shall omit or refuse to attend at either of the times or places as aforesaid, shall forfeit the sum of ten pounds current money of this Province, to be paid to him or them that shall sue for the same, to be recovered in such manner and form as the forfeitures hereafter by this Act are directed and appointed. Managers of elections to attend the commons house for two days.
Penalty for neglect.

XXIII. *And be it further enacted* by the authority aforesaid, That if any person or persons whatsoever shall on any day appointed for the election of a member or members for the Commons House of Assembly as aforesaid, presume to violate the freedom of the said election, by any arrest, menaces or threats, or endeavour or attempt to overawe, fright or force any person qualified to vote, against his inclination or conscience, or otherwise by bribery obtain any vote; or who shall, after the said election is over, menace, despitefully use, or abuse any person, because he hath not voted as he or they would have had him; every such person so offending, upon due and sufficient proof made of such his violence or abuse, menacing or threatening, before any two Justices of the peace, shall be bound over to the next general sessions of the peace, himself in fifty pounds current money of this Province, and two sureties each in twenty-five pounds of like money, and to be of good behaviour and abide the sentence of the said court, where if the offender or offenders are convicted and found guilty of such offence or offences as aforesaid, then he or they shall each of them forfeit the sum of fifty pounds currant money of this Province, and be committed to gaol without bail or mainprize till the same be paid; which fine so imposed shall be paid to one of the churchwardens Penalty on those who violate the freedom of election.
Fine to go to the use of the poor.

A. D. 1716.

The member in such case to be rendered incapable of sitting as a member.

of that parish, for the use of the poor thereof, where such illegal practice was committed. And if any person offending as aforesaid shall be chosen a member of the Commons House of Assembly, after conviction of such illegal practices before any two Justices of the Peace, he shall, by a vote of the said House, be rendered incapable to sit or vote as a member of that present Commons House of Assembly, and be further liable to the fines and forfeitures before by this clause appointed, and may be proceeded against as in the same is directed.

Voters to be free from writs against them.

XXIV. And that no person may, for any reason whatsoever, be discouraged from giving in his vote at any election of a member or members of the Commons House of Assembly, at such time and place as shall be duely appointed for that purpose, *It is hereby enacted* by the authority aforesaid, That no civil officer whatsoever shall execute any writs or other civil process whatsoever upon the body of any person qualified to vote for members of the Commons House of Assembly as before in this Act is directed, either on his journey to or in his return from the place of such election, or during his stay there on that account, or within forty-eight hours after the scrutiny for such election is finished, under the penalty of twenty pounds current money of this Province, to be recovered by the person arrested in such manner and form as hereafter in this Act is directed, of and from the officer which shall arrest or serve any process as aforesaid; and all such writs executed on the body of any person either going to, or being at, or within the time limited by this clause, returning from the place where such election is appointed to be managed, (he being qualified to give in his vote thereat,) are hereby declared void and null.

Penalty.

Penalty on Justices of the Peace neglecting their duty.

XXV. *And be it further enacted* by the authority aforesaid, That every Justice of the Peace who shall refuse or neglect to do his duty in and by this Act enjoyned and required, shall for every default forfeit the sum of one hundred pounds current money of this Province, to be paid to him or them that will inform and sue for the same, to be recovered in such manner and form as the forfeitures hereafter by this Act are directed and appointed.

Sixteen members to make a house.

XXVI. *And be it further enacted* by the authority aforesaid, That in every succeeding Commons House of Assembly no less than sixteen members duely met, shall make an house to transact the business of this house; and in passing any law there shall not be less than nine affirmatory, nor shall a less number than seven members of the said house meet together, who are hereby declared to be a sufficient number, and have power to choose a chairman to adjourn the same, (in the absence of the speaker,) or to summons by their messenger any absenting member or members, to appear in or give their attendance in the said house.

If no more than 7 members appear, Governor may adjourn the House.

XXVII. But whereas a less number than seven of the said members may be (by sickness, death, ill weather, or any other cause) prevented appearing as aforesaid in the said Commons House of Assembly, *Be it therefore enacted* by the authority aforesaid, That in case none or a less number than seven of the said members do appear, according to their prorogation or adjournment, that then and in such case it shall and is hereby declared lawful for the Governour or commander-in-chief for the time being, with the consent of his council, to name a further day for the meeting of the said lower House of Assembly, and that the said lower house shall not be dissolved by their not meeting as aforesaid; any act, law, statute, ordinance, custom or usage, to the contrary in any wise notwithstanding.

XXVIII. *And be it further enacted* by the authority aforesaid, That whosoever for the future shall be elected a member to serve in the Commons House of Assembly, before he be permitted to sit and vote in the said house, shall qualify himself for the same by taking the usual oaths and make and sign the declaration appointed by law. A.D. 1716.
Members to
qualify as usual.

XXIX. *And be it further enacted* by the authority aforesaid, That all fines, forfeitures and penalties mentioned in this Act, shall be recovered by an action of debt, suit, bill, plaint or information, in any court of record in this Province, wherein no essoign, protection, privilege, or injunction, wager of law or stay of prosecution, by *non vult alterius prosequi* or otherwise, shall be admitted or allowed. Mode of recovering penalties
and forfeitures.

XXX. *And be it further enacted* by the authority aforesaid, That all former Acts of Assembly of this Province relating to or concerning the elections of members to serve in the Commons House of Assembly, be from and after the ratification of this Act declared null and void, and they are hereby declared void and repealed. All former Acts
repealed. Provided always, that nothing in this Act contained shall extend or be any ways construed to extend to repeal, or any ways alter or change any matter or thing contained in an Act entituled An Act for the determination of General Assemblies, &c., ratified in open Assembly the twentieth day of June, one thousand six hundred ninety-four; any thing in this Act to the contrary contained in any wise notwithstanding. Provido.

*Read three times, and ratified in open Assembly,
the 15th day of December, 1716.*

ROBERT DANIELL,
THOMAS SMITH,
GEORGE LOGAN,
FRANCIS YONGE,
SAMUEL EVELEIGH.

NOTE.—Repealed by the Lords Proprietors, July 22, 1718, and by section 24 of the Election Act of September 15, 1721.

AN ACT for appointing Rangers to guard the Frontiers of this Province against the Incursion of our Indian Enemies, and for making a further provision for the Garrisons of Port Royal and Savano Town. No. 366.

(Ratified December 15, 1716. Continued by Act of June 29, 1717. Expired. The original Act not now to be found.)

AN Additional ACT TO AN ACT ENTITULED AN ACT FOR THE BETTER REGULATION OF THE INDIAN TRADE, BY IMPOWERING THE COMMISSIONERS THEREIN NAMED TO MANAGE THE SAME, FOR THE SOLE USE, BENEFIT AND BEHOOF OF THE PUBLICK. No. 367.

WHEREAS, by one Act of Assembly of this Province, entituled An Act for the better regulation of the Indian Trade, by empowering the

A. D. 1716

Preamble.

Commissioners therein named to manage the same for the sole use, benefit and behoof of the Publick, ratified in open Assembly the thirtieth day of June, in the year of our Lord one thousand seven hundred and sixteen, among other matters therein contained, it is enacted, that if any person or persons whatsoever, of what degree or quality soever they be, within this government, other than such as is by the said Act directed, shall directly or indirectly visit, frequent, trade or traffick to or with any Indian or Indians in amity with this governmeht, contrary to the true intent and meaning of the said Act, all and every such offender or offenders shall forfeit the sum of five hundred pounds, and all and singular the goods, wares, merchandizes, liquors, slaves, furs and skins, either carried to or bartered or sold to, or brought from any of the said Indians, to be seized by warrant under the hands and common seal of the said Commissioners, as by the same Act, reference being thereunto had, may more fully and at large appear; notwithstanding which, it often proving impracticable for the said commissioners to have white evidences to prove the several breaches and other abuses committed in contempt of the said Act, and which was designed to be thereby remedied: Now for the more effectual preventing the said frauds and abuses, which are daily complained of, and practiced by evil disposed persons to evade the true intent, design and meaning of the said Act, to the great damage and endangering the security and welfare of this Province;

Commissioners
may summon
persons to be
examined
touching illicit
trade.

I. *Be it therefore enacted*, by his Excellency John Lord Carteret, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the advice and consent of the rest of the members of the General Assembly, now met at Charlestown for the South and West part of the said Province, and by the authority of the same, That it shall and may be lawful for the commissioners and their successors in the said Act nominated and appointed, and they are hereby empowered and authorized, by warrant under their hands and their common seal, directed to any of the factors, sub-factors, agents or servants, by the said commissioners or their successors employed in the Indian trade, or to any lawful constable within this Province, to order and command them or any of them to repair to all such houses, out-houses or store-houses, or other place whatsoever within this Province, where they the said commissioners or their successors shall be informed, or they have reason to suspect, there is any skins, furs, slaves, or other goods or merchandizes purchased or bought of any Indian or Indians in amity with this government, contrary to the true intent and meaning of the said recited Act, and cause the same to be seized and carried or conveyed to the publick storehouse of the said commissioners, in Charlestown, there to remain until legal judgment be obtained for the same, and afterwards disposed of as is by the afore recited Act directed and appointed.

Proof of fair-
ness to lie on
the claimant.

II. *And be it further enacted* by the authority aforesaid, That if any skins, furs, slaves, goods, wares or other merchandizes, seized for any offence committed against this or the afore recited Act, shall be claimed by any person as the purchaser or owner thereof, the proof whether the said skins, furs, slaves, goods, wares and merchandizes were lawfully purchased, according to the true intent and meaning of the said Act, shall lie upon such claimer, and shall not be incumbent on the said commissioners or their successors, or on any informer on behalf of the publick.

III. *And whereas*, there has been several fraudulent conspiracies and confederacies practiced to avoid or evade the forfeitures or seizures of

skins, furs or slaves bought or traded for, with the Indians in amity with this Government, contrary to the said Act, by employing negroes or other slaves to deal with Indians, and also pretending to buy the said goods, skins, furs and slaves of white men, who clandestinely bought the same of Indians; for remedy thereof *Be it further enacted* by the authority aforesaid, That if any person or persons, buy or deal for any skins, furs or slaves, or any such goods, of any negro or slave whatsoever (excepting such skins or furs as shall be killed by any slave) or if any owner, master, mistress or overseer of any negro or other slave, shall allow or permit any such negro or slave to buy, sell, deal or traffick with any Indian or Indians whatsoever, he, she or they so offending, shall be liable to all the fines, penalties, forfeitures and seizures, as if they had actually dealt with the Indians themselves, and to be recovered and disposed of as other forfeitures or seizures are directed and appointed, either by this or the said Act; provided always, that it may be lawful for any merchant or other person or persons to buy of any free person or persons whatsoever any skins, furs or Indian slaves which has the publick mark or brand belonging to the said commissioners, on the same, or from such person or persons which shall produce a certificate upon oath, taken before any one Justice of the Peace of this Province, certifying that the said skins, furs or slaves were not bought, obtained or received of any Indian or Indians in amity with this Government, since the ratification of the aforesaid Act.

A.D. 1716.

Owners of
slaves to be lia-
ble for their
illicit trading.

IV. *And be it further enacted* by the authority aforesaid, That it shall be lawful for the said commissioners or their successors to allow, pay or otherwise gratify any person or persons who shall give them any information or make discovery to them of any frauds committed by any person contrary to this or the said Act, so much as they in their judgments shall think proper, out of any goods, skins, furs or slaves that shall be seized and recovered by such their information or discovery as aforesaid.

Commissioners
may compen-
sate informers.

V. And for the preventing any disputes that may arise by reason of any skins, furs, slaves or other goods, purchased of Indians in amity with this government, being sold at public outcry or vendue, by the store-keeper appointed by the said commissioners or their successors in Charlestown, *Be it enacted* by the authority aforesaid, That as often as the said commissioners or their successors shall have occasion, or shall think it proper to expose any skins, furs, slaves, goods, wares or merchandizes belonging to the Indian trade, to public outcry or vendue, it shall and may be lawful for their store-keeper in Charlestown, to do, perform and execute all and every matter and thing in the publication and execution of the said public sale or vendue, according to the direction of the said commissioners and their successors, and as is directed by an Act of Assembly of this Province, entitled an Act to appoint a Vendue Master, for the said Vendue Master to do, perform and execute; any thing in the said Act, or any law, usage or custom, to the contrary thereof in any wise notwithstanding.

The store-
keepers author-
ized by the
commissioners
may expose
goods to public
sale.

VI. *And be it further enacted* by the authority aforesaid, That if any action, bill, plaint, suit or information, shall be commenced or prosecuted against the said commissioners or their successors or any person or persons for any seizure or other thing done or made, or to be done or made in pursuance or execution of this or the aforesaid Act, such person or persons, or the said commissioners or their successors, so sued in any Court whatsoever, may plead the general issue and give this and the aforesaid Act, and the special matter, in evidence for their excuse or justification; and if the plaintiff or prosecutor shall become non-suit or forbear prosecution, or suffer discontinuance, or if a verdict pass against him, in any such action,

In case of suits
brought under
this Act.

A. D. 1716.

bill, plaint, suit or information as aforesaid, the defendants shall have treble costs, for which they shall have the like remedy as in any case where costs by law are given to the defendants.

Writs of replevin not to issue but on good security.

VII. *And be it enacted* by the authority aforesaid, That no writ of delivery shall be granted out of any Court of Record in this Province for any goods, skins, furs, slaves or other merchandize seized by virtue of this or the said Act, but upon good security, and that only in case the said commissioners or their successors shall defer or delay their coming to as speedy a tryal as the course of that Court will permit, and shall be thereby ordered and directed.

Persons may trade with Indians who reside in the settlement.

VIII. *And be it further enacted* by the authority aforesaid, That nothing in the above recited Act, for the better regulation of the Indian trade, ratified the said thirtieth day of June, 1716, shall extend, or be any ways construed or expounded to extend, to forbid, hinder or prevent any person who inhabits within the settlements of this Province, from trading, traffick-ing or bartering among and with any of the Indians, who reside constantly in the said settlements, for any other thing or things whatsoever, except furs, skins and slaves; any thing in the said Act contained to the contrary hereof, in any wise notwithstanding.

Onus Probandi to lay on the claimant.

IX. *And be it further enacted* by the authority aforesaid, That all seizures, that shall be hereafter made by the commissioners of the Indian trade, or their order, of any skins or furs, not exceeding the number of twenty, the onus probandi relating to the said skins, shall be determined by him or her who shall claim the same, and make oath before any three or more of the commissioners of the Indian trade, that he or she did not come by the same after any manner or way repugnant or contrary to the directions of the above recited Indian trading Act, any thing therein, or in this Act contained, to the contrary in any wise notwithstanding.

To remain in force till 30th June, 1718.

X. *And be it further enacted*, That this Act, and every thing therein contained, shall continue to be and remain in full force, from the time of the ratification thereof, until the thirtieth day of June, which shall be in the year of our Lord one thousand seven hundred and eighteen, and from thence to the end of the next session of the General Assembly after, and no longer.

*Read three times, and ratified in open Assembly,
the 15th day of December, Anno Dom. 1716.*

ROBERT DANIELL,
CHARLES HART,
GEORGE LOGAN,
FRANCIS YONGE,
SAMUEL EVELEIGH.

Repealed by the Lords Proprietors, June 22, 1718. And by Act of 20th March, 1718-9, which last Act is also repealed by Act of September 19, 1721, and this last is also repealed by Act of April 17, 1725. See also Act of April 20, 1726.

A.D 1716.

AN ACT FOR THE PAYMENT OF THE SUM OF FIVE HUNDRED POUNDS, No. 368.
CURRENT MONEY, UNTO MARIA, THE WIFE OF JOHN CHARLTON, LATE
OF THIS PROVINCE, VINTNER, IN CASE SHE PROCURES THE HUSPAW
KING, NOW AT ST. AUGUSTINE, AND HIS PEOPLE, TO RETURN, AND BE
SUBJECT AGAIN TO THIS GOVERNMENT.

WHEREAS, in order to procure and settle a peace between this
Government and the Indians, it hath been thought necessary to attempt
the same as well by fair means, as by open force, and whereas the
bringing over the Huspaw King and his people to return to their
former obedience and subjection to this Government, will be deemed
a considerable service done to the publick, and a great furtherance
towards putting an end to the present war, Preamble.

I. *Be it therefore enacted* by his Excellency John Lord Carteret,
Palatine, and the rest of the true and absolute Lords and Proprietors of
the Province of Carolina, by and with the advice and consent of the
rest of the members of the General Assembly, now met at Charlestown,
for the South and West part of this Province, and by the authority of
the same, That Maria, the wife of the said John Charlton, now at St.
Augustine, in case she shall bring along with her from St. Augustine,
the said Huspaw King and his people, or the greatest part of them,
now being in or near St. Augustine aforesaid; to return again, and be
subject and under this government, at any time within the space of
twelve months next after the ratification of this Act, shall have and
receive as a reward and gratuity for the said service, the sum of five
hundred pounds current money, to be paid her into her own hands,
out of the Publick Treasury of this Province, by the Publick Receiver
for the time being, so soon as the said Huspaw King and his
people, or the major part of them, shall return, and become subject
to this government as aforesaid; provided the same be accomplished
by her the said Maria, within twelve months next after the ratification
of this Act, and the Publick Receiver is hereby required to pay the
same accordingly. Reward of
£500.

II. *And be it further enacted* by the authority aforesaid, That the
aforesaid sum of five hundred pounds shall be paid by the said Pub-
lick Receiver, into the proper hands of her the said Maria, and that
the aforesaid sum of five hundred pounds, or any part thereof, shall
not be subject or liable to be seized or attached in the hands of the
said Publick Receiver, or any other person or persons whatsoever, for
or upon account of any debts, duties, contracts or agreements, sum or
sums of money whatsoever, due or owing by the said John Charlton,
to any person or persons whatsoever in this Province or elsewhere,
and the receipt or receipts of the said Maria, the wife of the said
John Charlton alone, without her husband, shall be a sufficient dis-
charge to the said Publick Receiver; one Act entituled, an Act for the
settling the titles of the inhabitants of this Province, to their posses-
sions in their estates within the same, and for limitation of actions, and
for avoiding suits in law, ratified in open Assembly the twelfth day of
Not liable to be
attached in the
hands of the
Receiver.

A. D. 1716. December, 1712, or any other Act, law, usage or custom, to the contrary thereof in any wise notwithstanding.

*Read three times and ratified in open Assembly, this
15th day of December, Anno Dom. 1716.*

ROBERT DANIELL,
CHARLES HART,
GEORGE LOGAN,
FRANCIS YONGE,
SAMUEL EVELEIGH.

Expired.

No. 369. **AN ACT** TO IMPOWER THE HONORABLE THE DEPUTY GOVERNOUR, or the Commander-in-chief, for the time being, to impress necessaries for the use of the Garrison at Savano Town, and to raise Forces to join the Charikee Indians to the farther prosecution of the War against our Indian enemies, and to appoint Commissioners to take, settle and adjust such outstanding debts as are due from the Publick for several necessaries impressed for the service of the War, from the inhabitants of this Province.

(Ratified December 30, 1716. Expired. The original too much mutilated to be copied.)

No. 370. **AN ACT** FOR THE BETTER ORDERING AND SETTLING THE PILOTAGE.

Preamble. WHEREAS, the pilotage in and out over the barrs of Ashley river hath for some time past been too much neglected, partly for want of diligent and careful pilots, and partly for want of a sufficient encouragement and provision to induce persons of industry and skill to take upon them the said employ, to the great discouragement of merchants, masters and owners of vessels, and the obstruction of trade, navigation and commerce to and with this Province; for the better regulating whereof for the future, and to the end that able and sufficient pilots may be duly commissioned and appointed in manner as hereinafter is directed, and to make them more careful and diligent in their said office or employment than heretofore,

The Governour to appoint Pilots. I. *Be it enacted* by his Excellency John Lord Carteret, Palatine, and the rest of the true and absolute Lords and Proprietors of the Province of Carolina, by and with the advice and consent of the rest of the members of the General Assembly now met at Charlestown, for the South and West part of this Province, and by the authority of the same, That from and immediately after the ratification of this Act, the Governour for the time being, shall and is hereby fully authorized and empowered, from time to time, and at all times during the continuance of this Act, to nominate, constitute and appoint, one or more such person and persons as he shall think fit, to be well qualified for that purpose, to be pilot for carrying in and out of ships and vessels over the bars of Ashley river aforesaid, and

the same again at pleasure for breach or neglect of duty, to suspend, remove or displace, and to frame such orders and instructions for the better regulating and ordering the said pilotage, as to him shall seem meet, agreeable to this Act; which said person or persons so from time to time to be nominated and chosen by the said Governour, shall and are hereby deemed and declared to be pilot or pilots for carrying in and out of ships or vessels over the said bars of Ashley river, exclusive of all and every other person and persons whatsoever.

A. D. 1716.

II. *And be it enacted* by the authority aforesaid, That all and every pilot or pilots, so to be nominated and appointed by the Governour, as aforesaid, before they take upon them the said office or employment, shall take the following oath on the holy evangelists: I, A. B., do sincerely swear, that I will from time to time, and at all times during my continuance in the office or employment of a pilot, for piloting of ships and vessels in and out over the said bars of Ashley river, well, truly, carefully and diligently discharge the trust and confidence in me reposed, for piloting of ships and vessels in and out over the said bars of Ashley river, according to the best of my skill and knowledge; and further, that I, the said A. B., shall and will, from time to time, during my continuance in the said office of a pilot, well and truly obey, pursue and follow all such orders and instructions as I shall receive from the Governour for the time being, in all such matters and things as to the said office of a pilot doth belong or in any wise appertain; and lastly, that I, the said A. B., shall not nor will during my continuance in the said office, directly or indirectly, by word, in writing or otherwise howsoever, enter into any partnership or become partner or sharer with any other pilot or pilots, now or hereafter to be chosen by the Governour, in any matter or thing whatsoever relating to the pilotage aforesaid; which said oath the Governour aforesaid is hereby empowered to administer accordingly.

Oath to be taken by pilots.

III. *And be it enacted* by the authority aforesaid, in order to keep a good watch and look out for ships or vessels designing to come over the said bars of Ashley river, That the pilot who shall first come up with and repair on board such ship or vessel, shall have the sole pilotage of the same, and shall have and receive for piloting in and out the said ship or vessel, the several rates and sums hereinafter mentioned, that is to say, the master or commander of every such ship or vessel shall pay unto the pilot who shall take the same in charge and pilot such ship or vessel in and out over the north or south bar of Ashley river aforesaid, the sum of three pounds, current money of the said Province, for all ships or vessels drawing seven foot water or under, and also the sum of thirty shillings over and besides the said sum of three pounds for every foot such ship or vessel shall draw over and above the said seven foot.

The pilot who shall first come up with a vessel entering, shall be the sole pilot thereof

Fee for pilotage.

IV. *And be it further enacted* by the authority aforesaid, That the person or persons who shall become security or securities for any such ship or vessel, pursuant to an Act of Genenal Assembly of this Province intituled, an Act for the entry of vessels, shall be liable to answer the said pilotage monies to the said pilot or pilots, his executors or administrators, for which the said pilot or pilots may bring his action of debt and recover the same, in case the same has not been paid by the master or commander of such ship or vessel.

Sureties of a vessel liable for pilotage.

V. *And be it further enacted* by the authority aforesaid, That if any ship or vessel shall happen to receive any hurt or damage, miscarry or be lost, through the ignorance, unskillfulness, carelessness, neglect or wilful malice of any pilot, who shall take upon him the care and charge of such ship or vessel, that then and in such case all and every such pilot or pilots

Pilot liable for damage from want of skill or care.

A. D. 1716.

shall answer for and make good all and every such damages to the masters or owners of such ships or vessels; but that such pilot shall nevertheless in any such action or actions so to be brought against him, have liberty to plead the general issue, and give the special matter in evidence on his defence.

Pilots neglecting or refusing to go to a vessel.

Penalty.

VI. *And be it further enacted* by the authority aforesaid, That if any pilot or pilots, who shall at any time neglect or refuse to go on board and take charge of any ship or vessel, designing to come in or go out over the said bars of Ashley river, after orders to him given by the Governour aforesaid to that purpose, that then and in such case, all and every such pilot for every such offence, shall forfeit the sum of ten pounds, to be recovered by action of debt in any Court of Record in this Province, wherein no essoign, protection, injunction or wager of law, shall be allowed; and all and every such action or actions shall and may be had and brought in the name of the said Governour for the time being.

Pilots taking more than the prescribed fee.

VII. *And further also*, That if any such pilot or pilots shall exact or require of any master or commander of any ship or vessel more than the sum or sums herein before mentioned to be given or allowed him or them by this Act, he or they for every such offence shall likewise forfeit the sum of ten pounds current money, to be recovered in manner as aforesaid; which said forfeitures, so to be recovered, shall be given and applied, after deducting thereout the charges and expences of such suit, to such other of the said pilots as shall undertake the bringing in or carrying out of such ship or vessel, or to such of them as shall be thought most diligent or deserving in his said office.

None to act as pilots but such as are regularly appointed.

VIII. *And be it further enacted* by the authority aforesaid, That if any person or persons whatsoever, other than such as shall be nominated or appointed by the Governour as aforesaid, shall take upon them to act as a pilot or pilots to carry any ship or vessel in or out over the said bars of Ashley river, all and every such person or persons shall not only lose such reward or other satisfaction promised him or them for bringing in such ship or vessel, but shall likewise forfeit the sum of ten pounds, to be recovered and disposed of in manner as aforesaid, and all and every such person or persons shall be likewise liable to make full satisfaction for all and every the damages and miscarriages that shall or may happen to such ship or vessel, or her goods or cargo, by reason of such their presumption and illegal and unwarrantable undertaking.

Pilots to provide a sufficient pilot boat.

Penalty.

IX. *And be it further enacted* by the authority aforesaid, That all and every such pilot or pilots, so to be nominated and appointed by the Governour as aforesaid, and each and every of them, shall within six months after the ratification of this Act, have and keep one good and sufficient boat, decked, well fitted and large enough to go out to sea to pilot in vessels over the said bars of Ashley river, and shall likewise observe and follow all such orders and instructions as they shall receive from time to time from the Governour aforesaid, relating to the said pilotage, under the penalty of the forfeiture of ten pounds, to be recovered and disposed of as aforesaid; and the loss of their employments, if to the said Governour shall seem fit.

Pilots to be regularly commissioned by the Governour.

X. *And be it further enacted*, by the authority aforesaid, That the Governour for the time being be and is hereby authorized and empowered, to nominate, constitute, commissionate and appoint, by any warrant or commission under his hand and seal for that purpose, all and every such pilot or pilots as aforesaid, and the same and every of them, for breach or neglect of duty or orders, again to suspend, supersede, displace or remove, and other pilot or pilots again in their room and place to appoint and

constitute, or the same again to restore, as to the said Governour shall seem meet, and also to do, perform and execute all and every other matter and thing whatsoever required of him by this Act. A. D. 1716.

XI. *And be it further enacted* by the authority aforesaid, That if the said Governour shall at any time hereafter be sued, troubled or molested, for any matter or thing whatsoever, done in pursuance or by virtue of this Act, the Governour aforesaid shall and may plead the general issue, and give this Act or any other especial matter in evidence, and if any person or persons, who shall commence, sue or prosecute the Governour aforesaid in such action, and discontinue the same, or become non suit, or a verdict pass against him, that then all and every such person or persons shall pay unto the said Governour their treble costs of suit. In suits against the Governour he may plead the general issue, &c.

XII. *And be it further enacted* by the authority aforesaid, That this Act and every matter and thing herein contained, shall be and continue in full force for the term and space of two years, and from thence to the end of the next sessions of the General Assembly, and no longer. To continue for two years.

*Read three times and ratified in open Assembly,
the 30th day of December, A. D. 1716.*

ROBERT DANIELL,
CHARLES HART,
GEORGE LOGAN,
NICHOLAS TROTT,
FRANCIS YONGE,
SAMUEL EVELEIGH.

NOTE.—See reviving and continuing Act of February 20, 1718-9, Section 1, continuing this Act for 2 years, and Act of February 17, 1720, continuing this Act for 3 months, and Act of April 28, 1721, for 3 months more, and particularly Act of 9th April, 1734, on this subject.

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 Act for the Sale of Goods distrained for Rent. Vide post. 8 Ann, ch. 14.
 Act to prevent Frauds by Clandestine Mortgages. Vide p. 161 of this work.
 Act for regulating Trials in cases of Treason and Misprision of Treason. Vide 539.
 An Act to enable Posthumous Children to take.
 An Act to enable natural born Subjects to inherit.
 An Act for punishing Accessories to Felonies.
 An Act for giving like remedy on Promissory Notes, &c.
 An Act for the better preventing excessive and deceitful Gaming. Vide ante. p. 517.
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[End of the British Statutes declared of force.]

- 322 On Common Law and Chancery Law. December 12, 1712. p. 413, 414.
 323 An Act for Settling the Titles of the Inhabitants, &c., being the Limitation Act of South
 Carolina. December 12, 1712. p. 583.

REMARKS CONCERNING THE NOTES.

THE Editor wishes to observe, that the farther he sees into the present state of the Statute Law of South Carolina, the more imperious seems the demand for a publication in which nothing of a public nature shall be omitted of past or of present legislation. Every year adds to the complication of our Law on subjects of great public interest, in which a more laborious research than can in every case be practically exacted, is absolutely necessary to accurate legislation in future. The Editor, therefore, in the notes, has added to each Act, not only a reference to the scattered legislation on the same subject among our statutory enactments, but to the series of judicial decisions thereon in our own State; that this work may facilitate future labour, and serve as a platform, whereon to base any future alteration, amendment, improvement, or condensation of our Laws, with all the lights and aids before us that the sources of our own State can supply. This will add considerably to the labour of the Editor, but it is labour that in his opinion is demanded by the present state of our Law, and will become more difficult the longer it is deferred. The Editor submits the present brief collection of notes and references, as additions to the work, manifestly useful, if not considered as absolutely necessary.

A compilation that shall include as a Digest, a full though brief statement of all the points decided in our courts, would be a very useful book of consultation, but would not compensate a private publisher. The Editor proposed to himself such a digest in the notes to this edition; but on taking up, by way of experiment, the cases relating to Executors and Administrators, he found them so numerous and extensive, as to preclude him from pursuing that plan in relation to other subjects of legislative enactment and legal decision. He has therefore, however reluctantly, been compelled to refer only to the names of cases and the reporters.

The Reporters of South Carolina decisions, are:

1. 2. Bay's Reports. 1798—1811.
1. 2. Reports of Cases in the Constitutional Court, published by John Mill. 1819.
1. 2. Reports of Decisions in the Constitutional Court, published by W.R.H. Treadway. 1823
1. Reports of Cases in the Constitutional Court, by H. J. Nott and D. J. McCord. 1820.
- A second volume by the same Reporters. 1821.
1. Reports of Cases in the Constitutional Court, by David J. McCord. 1822.
2. Volume by the same. 1823.
3. Volume by the same. 1826.
4. Volume by the same. 1830.
1. Cases in the Court of Appeals, by H. Bailey. 1833.
2. Cases in the Court of Appeals, by H. Bailey. 1834.
1. Cases at Common Law, in the Court of Appeals, during 1833, by W. R. Hill. 1834.
1. 2. 3. Reports of Cases in the Court of Chancery, from the Revolution to December, 1813, inclusive. By Henry W. Desaussure. 1817.
- 4th volume of like cases by the same. 1819.

1. Chancery Cases in the Court of Appeals, from January, 1825, to May, 1826, by David J. McCord. 1827.

2nd Volume by the same, of cases from January to May, 1827. 1829.

1. Reports of Cases in the Constitutional Court, by the State Reporter, (the present Chancellor Harper.) 1824.

2nd Volume by the same. 1825

1. Equity Reports, by the same. 1824.

1. Chancery Cases in the Court of Appeals, by W. R. Hill. 1834.

2. Cases at Law in the Court of Appeals, by the same. 1835.

Chief Justice Trott's Collection of the Public Laws of South Carolina, from 1682 to 1734. Folio. 1736.

The Public Laws of South Carolina, by John Faucherard Grimke, from May, 1682, to 1790, inclusive. Many Acts and parts of Acts omitted. Quarto. 1790.

Judge Brevard's Alphabetical Digest of the Public Law of South Carolina. 3 Vols. 1814.

NOTES,

CONTAINING REFERENCES TO ACTS OF ASSEMBLY AND CASES DECIDED
IN THE COURTS OF SOUTH CAROLINA.

No. 111. *An Act for making sufficient Fences, and keeping the same in repair;* p. 81. See Act of 1827 on this subject, and 2 Bail. Rep. 389, *Gibson v. Vaughan*.

No. 126. *An Act to prevent the stealing and taking away of Boats and Canoes;* p. 105. See Act of March 11, 1754, to prevent the stealing of Negroes, Schooners and Periaugas.

As to the method of notation, viz : 1695-6, observe, that the civil year of England commences March 25th. The historical year commences January 1st. Hence March 16th, the date of this Act, is in the civil year 1695, which closes on the 24th of March, and it is in the historical year 1696, which began January 1st. The double mark of the year, therefore, appertains only to the days between January 1st and March 25.

No. 136. *An Act to prevent Mariners and Seamen running in debt;* p. 118.

For other Acts relating to Mariners and Seamen, see Act of 1703, No. 217, p. 229; also, section 23 of the Statute of Frauds and Perjuries as to Seamen's wills; also, sections 12 and 13 of the poor Act of 1712; also, section 4 of 1 Ann, Statute 2, ch. 9, A. D. 1701; also, Act of Assembly 17th May, 1751, relating to Seamen; also, section 2 of Act of Assembly, 13th April, 1756; also, section 6 of Act of Assembly, 26th March, 1784; also, Act of Assembly relating to Wills, March 13th, 1789; also, the Statute of 25 George 2, ch. 6, A. D. 1729, made of force in the Provinces and Colonies.

Cases Decided.—*Fleming v. Ball*, 1 Bay's Rep. 5; *Messonier v. Union Insurance Company*, 1 Nott & M'Cord, 155; *McBride v. Watts*, 1 M'Cord, 384.

No. 161. *Act to prevent deceits by double Mortgages, &c.* 1698, p. 137. See 4 and 5 William and Mary, ch. 16, 1692.

The mischief provided against in this Act, is the *stellionate* of the civil law, 1 Domat 244; whereby, if the thing sold or mortgaged a second time, was insufficient in value to satisfy both demands, the latter contract is annulled, and the party selling or mortgaging, punished.

This Act is the commencement of our system of registering and recording.

As to registering and recording generally, see 45th section of the county court Act, 17th March, 1785. Also, the Act for establishing a medium by way of loan, 1785, section 14; and 1 Nott & M'Cord, 31, cited below. Also, the Act of 1786, as to Beaufort and Georgetown. Also, Act of 13th March, 1789. Also, the Act for establishing salaries and fees, 1791. Also, Act for Orangeburgh and
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Beaufort, 1791. Also, the Act for Georgetown, 1791. Act for Horry, 1802. For Orangeburgh, 1804. Registers and Recorders made Justices of Peace ex-officio, 21st December, 1804. See also Act of 1826.

As to recording *Marriage Contracts and Marriage Settlements*, see the Act of 1540, of 1785, and the notes thereto; the valuable remarks in the Carolina Law Journal, 355, et seq. and the case of *Price v. White et al.* Car. Law Jour. 297.

As to the recording of conveyances by *Feme Coverts*, see section 29 of the Act for the remission of the arrears of Quit Rent, August 20th, 1731. Also, section 7 of the Act for the more frequent holding of Courts of Session, &c. 1767. Also, section 10 of an Act for continuing, reviving and amending several Acts, 1778. Also, Act of 8th March, 1785. Also, Act of 13th March, 1789.

On the effect of recording as to *subsequent judgments*, see the legatees of *Ash v. Executors of Ash*, 1 Bay, 300.

On the effect of *not recording*, and the county court Act, see *Penman v. Hart*, 2 Bay, 251. *Tart v. Crawford*, 1 M'Cord, 265. *Martin v. Quattlebum*, 3 M'Cord, 205. *De Bardeleben v. Beckman*, 1 Eq. Rep. 346. *Ward v. Wilson et al.* Ibid. 401. *Garner v. Executors of Garner*, Ibid. 437. *M'Fall v. Sherrard*, Harp. Rep. 295. *Cordery v. Zealy*, 2 Bail. 205. *Hillegas et. ux. v. Hartley*, 1 Hill, 107, 119. *McMeekin v. Edwards et. ux.* Ibid. 295. *Harrison v. Hollis*, 2 Nott & M'Cord, 578. Acknowledgements of feme coverts must be recorded, 1 Nott & M'Cord, 469, *Gough v. Walker*.

As to the effect of recording in a *wrong office*, see *Conolly v. Steward*, 2 Bay, 509. An informal record is not notice. *Schoales and Lefroy, Lord Dunsany v. Latouche*, 157, 468. *Heister v. Fortner*, 2 Binney, 40, and 3 Cranch.

As to *notice aleunde* where a deed is not recorded. *Tart v. Crawford*, 1 M'Cord, 265. *Givens v. Branford*, 2 M'Cord, 152. *Frazer v. M'Pherson*, 3 Eq. Rep. 393, 420. *Nixon v. Bynum*, 1 Bail. 148. *Anderson v. Harris*, Ibid. 315. *Cordery v. Zealy*, 2 Bail. 305. *Smith & Cuttino v. Osborne et al.* 1 Hill, 342. *Massey v. Thompson*, 2 Nott & M'Cord, 105. *M'Fall v. Sherrard*, 1 Harp. 296. *Haman v. M'Call*, 2 Harp. 170.

Mortgages of *Leaseholds to be recorded in the Register's office*, 1 Nott & M'Cord, 460, 469. Mortgages to the *Loan office*, considered as recorded. *House v. Brailsford*, 1 Nott & M'Cord, 31.

Sheriff's Deeds must be recorded, Act of Assembly, 1785. *Massey v. Thompson*, 2 Nott & M'Cord, 105. See also, Stat. 4 and 5 W. and M. ch. 16, sec. 3.

Registry not notice where possession is retained, *Cordery v. Zealy*, 2 Bail. 205.

The ancient writ of *deceit* is superseded in modern practice by action on the case for deceit: see *Foster et al. v. Charles*, 1 Barn. and Adolp. 105. See our gaming and swindling Act of 1791, and 1 Bay, 280, 347.

Leases to be recorded. Landlord and Tenants Act of 1817, p. 35, pamphlet laws. In England and in this country, the courts support a case against the enactment, when it does not fall within the mischief to be remedied: in France, the courts support the rule enacted at the expense of particular cases. See a valuable note on the registry Acts, in Hargreave and Butler's *Coke upon Littleton*, Lib. 3, ch. 8, section 504, p. 291.

A registry or record invalid through informality, does not amount to constructive notice. See *Wilson v. Mason*, 1 Cranch's Rep. 70, and the cases there cited: also, 2 Binney's Penn. Rep. 40.

See Dissertation on the registry Acts, 1 Car. Law Jour. 352.

No. 202. *An Act for the more effectual suppressing of Blasphemy and Profaneness*, 1703, p. 196. This Act is copied from the English Statute of 9 and 10 William the 3rd, ch. 32, 1698, which is now repealed in that country. I apprehend this Act is also virtually repealed by the 8th article of our Constitution, 1790. Laws should be enacted against improper *conduct*, which *can* not against improper *opinions*, which *cannot* be controlled by legislation; and which are liable to change with every changing generation of men, and must necessarily be the result of such evidence as may happen to be offered to the understanding.

No. 216. *An Act against Bastardy*, 1703, p. 224. Repealed by Act of Assembly, 1705. See notes to 20 H. 3, ch. 9, 1235.

No. 250. *An Act relating to the office and duty of a Coroner*, 1706, p. 269. See the general Fee Bill, 14th February, 1791. Also, Act of 16th December, 1797. Also, Act of 21st December, 1798. Also, the clause concerning the return of Executions, in the supplementary Act of 17th December, 1803. Also, the Acts of Assembly for 1821, 1825, 1829, on the duties of Coroner.

No. 256. *An Act for the establishment of Religious Worship*, 1706, p. 282. The 27th section of this Act, relating to marriage by Laymen, has been decided to be obsolete, by *Watson v. Blaylocke*, 2 Mill's Const. Rep. 351.

The clauses against marriage within the prohibited degrees, and those which relate to the divisions of parishes, are in force: except where parish boundaries have been since modified by later Acts, which will be noticed in their proper places. As to parishes, see the next Act of Assembly after this, viz: December 18, 1708. A reference to Acts concerning particular parishes will be found in the Index to the Acts of Assembly published by Faust, from 1791 to 1804. The Acts themselves are inserted in this collection.

For other Acts relating to the subject of religious worship, see Act No. 1, A. D. 1682, No. 289, A. D. 1710, No. 307, A. D. 1712, No. 320, A. D. 1712, adopted in the Charleston City Acts; and the Act of December 17, 1794, for the incorporating certain religious societies. A verdict on a Sunday, not being *dies jurisdictus*, is void, per *Shaw v. M'Combs*, 2 Bay, 232.

It seems at this day to be the prevailing and reasonable opinion, that when men meet together to form themselves into a political community, they contemplate their mutual duties founded upon their connection and relation *here*, in *this* world, not in the world to come. For all the laws of morality arise from and are founded upon the duties of man towards man in a state of society. The affairs of the next world, are matters of private belief, not of public cognizance; and the business of society can go on without reference to any religious creed whatever. This principle seems to have suggested the 8th article of our Constitution, which enacts that "the free exercise of religious profession and worship, without discrimination or preference, shall forever after be allowed in this State to all mankind." Constitutional law is the paramount law of the land, and every legislative Act contravening it, is ipso facto void.

This does not interfere with the right of the legislature to incorporate religious societies for civil purposes. Nor with the right of appointing a Sabbath or day of rest from labour, as a municipal institution, conducive to civil expedience. But a Sabbath appointed as a day of religious observance, and sanctioning any religious creed on the subject, I apprehend is not justifiable under our Constitution, which does not authorize any such discrimination or preference.

No. 262. *Act to make and establish Bills of Credit*; p. 302.

OF COIN, CURRENCY, PAPER MONEY, DEPRECIATION.

COIN.—A dollar, a *peso*, *peso duro*, piece of eight (eight reals) all mean what we now commonly call a dollar. Frequently also, a dollar was called piastre. Very early, that is before 1700, the dollars were distinguished for weight and fineness. The Mexican pillar dollar, the Globe dollar, the Seville dollar, weighing 13 pennyweights or 312 grains troy weight, were by Act of 11th December, 1691, p. 72 of the present volume, allowed to pass for five shillings, and the half dollar for two shillings and sixpence. All other dollars that weighed from 10 to 13 pennyweights, were allowed to pass for 4 shillings only.

The real or riall (called in one of our early Acts the royal*) was at that time the eighth part of a dollar, or our present $12\frac{1}{2}$ cent piece. At present the real is the 20th part of a dollar; and of reals there are eight varieties of different value: see 1 Kelly's Cambist, p. 316 to 319.

Real of Mexican plate is worth	-	-	-	-	6,55	} Pence Sterling.
" " Old " " "	-	-	-	-	4,95	
" " New " " "	-	-	-	-	5,24	
" " Vellon " " "	-	-	-	-	2,62	

The Act of January 14, 1692-3, on the value of coins, is not now extant.

By Act of 17th January, 1694-5, pieces of eight of Mexico pillars, Peru lion dollars, Seville and other silver coins containing full 13 pennyweights (312 troy grains) shall pass for five shillings, and the half dollar of six and a half pennyweights, for two shillings and sixpence. And silver coin weighing from ten to 13 pennyweights shall pass for four shillings only. Hence gold in this Colony was to silver in value only at that time as 13 to 1. For pieces of gold were ordered to pass for ten shillings for two pennyweights or 48 grains.

The Proclamation Act of 6 Ann, 1707, I shall notice presently.

By an Act to ascertain the weight and value of the several gold and silver coins in circulation, 12th March, 1783, a table of weights and values of several sorts of coin is constructed, in which the weight of the Spanish dollar is omitted, but its value is fixed at 4 shillings 8d. The value of gold may be collected from that table; thus, a Spanish doubloon of 17 pennyweights (408 grains) is £3 10, or twenty pence half penny for ten grains. The value of standard silver money in England from the year 1600 to the end of George 3, has been 5s. 2d. per ounce troy. The value of fine silver 5s. 7d. The gold standard being to the silver standard in value, as 15 to 1. By this Act all payments are to be made according to the valuation of coin or currency at the date of the contract.

"In Carolina (says Dr. Ramsay in his History of South Carolina, v. 1, p. 163) as a British Province, sterling was the legal money of the country: but unfortunately there was very little of it in the Province, or in any of the British Colonies. The greatest part of their current gold and silver was foreign coin. The local Assemblies settled the value thereof by laws peculiar to each Province. To remedy the inconveniences arising from the different rates of foreign coin in the several Colonies, an Act of Parliament was passed and a proclamation founded thereon by Queen Ann in 1708, for ascertaining the current rate of foreign coin in all the Colonies. This fixed their nominal current value in British America, at one fourth above the nominal value in sterling money. But

* But in the reign of the English Kings from Hen. 6 to Charles 1, there appears to have been a coin called a ROYAL, whose value varied at different times, from ten to thirty shillings. See Rees' Encyc.—MONEY.

the demand for more circulating medium in a new country than could be furnished in coin, was so urgent, that this regulation was not regarded, and the confusion arising from the different values of British sterling and provincial current paper money, became general throughout the Colonies. In some, a dollar passed for six shillings, in others for seven and sixpence, in North Carolina and New York for eight shillings, in South Carolina for one pound twelve shillings and sixpence. In the latter, the comparative value of sterling coin and paper money diverged so far from each other, that after passing through all the intermediate grades of depreciation, it was finally fixed at seven pounds of the paper bills for one pound sterling. It afterwards assumed the character of CURRENCY as distinct from sterling, and formed, as it were, another denomination and species of money."

Thus far Ramsay, whose whole section on the fiscal history of this State, in his second volume, should be carefully consulted. I can find no lights on this question of the variable value of coined money in Hewitt's account of South Carolina and Georgia.

Judge Brevard, in his introduction, p. xii, speaks as follows:

"PROCLAMATION MONEY, which is also frequently mentioned in our Acts of Assembly, acquired that denomination from a proclamation of Queen Ann in the sixth year of her reign, about the year 1708; the object of which was, to establish a common measure of value for the paper currencies of the Colonies. The same species of coins which were equally rated in all the Colonies and passed at the same value as sterling money, were variously rated and of different values in relation to the paper currency of the different Colonies. In some of them the dollar passed at 8s.—7s.6d. and 6s., according to the quantities of paper thrown into circulation. The standard fixed by the proclamation, was, one hundred and thirty three pounds six shillings and eight pence (133, 6. 8.) paper currency, for one hundred pounds sterling. The nominal value of currency was established at one fourth below the value of sterling. The dollar passed at six shillings and three pence, although not quite equal to six shillings and two pence three farthings proclamation money.

"This regulation, though it was respected by the Colonial Legislatures, was little attended to by the people at large; and the confusion resulting from paper currencies of different values continued to exist." (Brevard *ut. sup.*)

The Act in question is 6 Ann, ch. 30, Anno 1707 (not 1708) of the common editions of the Statutes at Large, and 6 Ann, ch. 57, 58, of the Statutes of the Realm. Although enacted expressly for the Colonies and binding upon them legally, it is not to be found in the enumeration of British Acts by Trott, or the collection of Grimké.

The Proclamation and Act will be found in its chronological place among the British Statutes in the present edition. By this proclamation, the following values were set upon coins under the authority of their respective weights and the assays of them made at the Mint at London.

Seville pieces of eight, old plate, weighing 17 pennyweights 12 grains (or 420 grains) four shillings and six pence.

Seville pieces of eight, new plate, 14 pennyweights (336 grains) three shillings and seven pence one farthing.

Mexico pieces of eight, 17 pennyweights 12 grains, four shillings and 6 pence.

Pillar pieces of eight, 17 pennyweights 12 grains, four shillings and six pence three farthings.

Peru pieces of eight, old plate, 17 pennyweights 12 grains, four shillings and five pence, or thereabouts.

Cross dollars, 18 pennyweights (432 grains) four shillings and four pence three farthings.

Doubloons of Flanders, 20 pennyweights and 21 grains (501 grains) five shillings and six pence.

Ecus of France, or silver *Louis*, 17 pennyweights 12 grains (420 grains) four shillings and six pence.

Crusadoes of Portugal, 11 pennyweights four grains (268 grains) two shillings and ten pence one farthing.

Three Gilder pieces of Holland, 20 pennyweights and 7 grains (or 487 grains) five shillings and two pence farthing.

Old Rix dollars of the Empire, 18 pennyweights and ten grains (442 grains) four shillings and six pence.

The halves, quarters, and other parts, in proportion to their denominations.

From and after the 1st of January, 1708, no Seville, Pillar or Mexico pieces of eight, though of the full weight of $17\frac{1}{2}$ pennyweight, shall be accounted, received, taken or paid, within any of the Colonies or plantations, as well those under proprietors and charters, as under our immediate commission and government, at above the rate of six shillings a piece current money. All other coins to be taken and valued in the same proportion, (that is $133\frac{1}{3}$ per cent.)

As by an Act of 11th December, 1691, of the South Carolina Assembly, the current weights of the Mexican, the Pillar, and the Seville dollars, were taken at 312 grains, while the same coins in 1716 weighed 420 grains, it is probable that all the foreign dollars current in early times in South Carolina, were filed and sweated before they were permitted to go into circulation.

By Act of March 12, 1783, the Spanish milled dollar is 4s. 8d. The dollar was afterwards reckoned at the exaggerated value of £1 12 6; but that was in the depreciated current money, which passed at seven for one. See Act of Assembly, March 16, 1783, giving the then scale of depreciation.

On the subject of Coin, I can find no other facts on record, till the Act of Congress relating to the Mint, of April 2, 1792, directing a coinage of *eagles*, value ten dollars, containing $247\frac{1}{2}$ grains of pure gold and $22\frac{1}{2}$ grains of alloy, the standard weight being 270 grains; half eagles and quarter eagles, in proportion. This makes pure gold worth 97 cents per pennyweight of 24 grains, and standard gold about 89 cents per pennyweight. Dollars to contain $371\frac{1}{2}$ grains of pure silver, and 416 grains of standard silver. Hence, $247\frac{1}{2}$ grains of pure gold, are supposed to be worth ten times as much as $371\frac{1}{2}$ grains of pure silver; and 270 grains of standard gold, worth ten times as much as 416 grains of standard silver. This brings the proportional value of pure gold to silver as 15 to 1; according to the eleventh section of that Act.

By a report of a committee of the Senate, 1830, of which General Samuel Smith of Baltimore was chairman, it appears that our current silver dollar, which at par of exchange was usually reckoned at 4s. 6d. sterling, having been weighed and assayed at the Mint at London, was found to be worth $49\frac{3}{4}$ pence sterling only. Were it worth 50 pence, then would one cent be exactly one half-penny sterling; and the pound sterling would be worth four dollars and eighty cents, instead of \$4 44, as heretofore calculated. An Act of Congress was passed in 1831, adopting this convenient alteration.

By chapter 95 of Acts of Congress of 1834, an alteration was made in the coinage of the United States, of somewhat dubious propriety. The eagle is to contain 232 only instead of $247\frac{1}{2}$ grains of pure gold, and 258 instead of 270 grains of standard gold. The eagle is to be counted as before, equivalent to ten

dollars. Gold coins, coined anterior to the first of July, 1834, are made receivable in all payments at 94.8 cents per pennyweight (of 24 grains.) This Act alters the proportional value of gold to silver, from 15 to 1, to 16 to 1. Fifteen to one was too low; I think the nearest approximation to the real proportion would have been 15.75 to 1.

By chapter 96 of the Acts of the same session, the gold coins of Great Britain, Portugal and Brazil, not less than twenty-two carats fine, (that is, containing two parts of alloy in twenty-four parts,) shall pass at the rate of 94.8 cents per pennyweight of 24 grains, troy. The gold coins of France 9.10 fine, at 93.1 cents per pennyweight. The gold coins of Spain, Mexico, and Columbia, of 20 carats, 3 grains and one sixteenth of a grain fine, at 89.9 cents per pennyweight.

Such are the facts that have met my research as to Specie Money or Coin.

From Brevard's Introduction to his Digest, p. xi.

"In 1702, in order to pay the expenses occasioned by an unfortunate military expedition against St. Augustine, the Legislature authorized the issue of stamped Bills of Credit, to be sunk in three years by a duty on liquors, skins and furs. This was the first paper money that appeared in the Province, and was the origin of *current money*, mentioned in many of our Acts of Assembly, and of what was called *old currency* till the close of the revolution. It was denominated *current money*, to distinguish it from sterling money of England, very little of which was ever in circulation, the balance of trade being always in favor of the mother country.

"The credit of this currency was at first equal to sterling, and so continued for about six years, but afterwards depreciated. The necessities of the government continually requiring fresh supplies of a medium of value for circulation, to defray the charges incurred by Indian and Spanish wars, and other exigencies of a feeble and harassed Colony, succeeding emissions of bills of credit took place. The first emissions were 4000 and 8000 pounds; but in 1712, a publick Bank was established, and the issue of bills amounted to £48,000, which were called Bank Bills, and like our present bank money might be loaned out on security. This paper currency might be legally tendered in payment of debts, though the bills did not carry interest, and were payable at a future time. Expedients were devised for the purpose of reducing the quantity in circulation, which became at length excessive, notwithstanding the emissions were restrained by royal instructions. These expedients were frustrated by new emissions. Thirty thousand pounds issued in 1716, and £210,000 in 1736.

"Yet under all these disadvantages little or no depreciation took place after the first five or six years of the first emission, for the space of forty years and upwards. The depreciation, which had soon settled at 7 for 1, remained fixed at that point with little or no variation till the year 1750; and even after that period it continued to be the nominal measure of exchange. The Spanish milled dollar, that passed current at 4s. 8d. sterling money, was equal to £1. 12s. 8d. current money. By this relative measure of value, the amount of fines and forfeitures imposed by various Acts of Assembly may be correctly estimated.

"The credit of paper currency was now much degraded, and an Act of February 6, 1782, gave the final blow to it, by taking from it its quality as a legal tender in discharge of debts."

To the above quotation from Brevard, the Editor meant to have added some extracts from Dr. Ramsay's fiscal history of South Carolina in the second volume of his History, illustrating the rise and progress in this Province, of *Paper Credit, Paper Money, and its Depreciation*; but as Dr. Ramsay's book is, and is likely to remain, a work always called for by the public, it may suffice to refer to Vol. 2, p. 163, to the end of that section. To this the reader will do well to add in his consultations, the Act of March 16, 1783, furnishing a scale of depreciation from 1777 to 1780 inclusive.

INTEREST OF MONEY.—The Editor can find no early Act of Assembly settling what shall be the legal interest of money. Very early, from 1700 to 1706, persons paying their taxes in advance were allowed 12 per cent. interest thereon. The following extract from Dr. Ramsay's History, vol. 2, p. 197, will give a summary of the known facts on this subject :

"A few observations on the rate of Interest and Usury, as connected with the fiscal history of South Carolina, shall close this chapter. For the first fifty years after the settlement there is no evidence of any law fixing the rate of interest, nor of any against usury. Two laws were passed, one in 1720, the other in 1721, against usury : the last of which indirectly brings into view the rate of interest. [See No. 414, and the Act of Sept. 15, 1721.] This prohibits the taking of more interest for money lent than ten per cent. per annum, under a forfeiture of treble the amount. When Carolina was settled, interest in England was six per cent : when this law was passed, it was five. How it came to be ten per cent. in Carolina, without any express law, does not appear. Perhaps common consent and usage had fixed that rate, for no evidence exists that there was one written law authorizing it. As a reason for proscribing usury, it is stated in the law of 1721, [See law of Feb. 1719, No. 417,] that 'divers persons have of late taken advantage of the necessities of the people, and exacted twenty-five pounds interest for the loan of one hundred pounds for one year, and very often more.' Twenty-seven years after, in 1748, a law passed for reducing interest from 10 to 8 per cent ; and twenty-nine years afterwards, in 1777, it was reduced from 8 to 7 per cent. These reductions were both preceded by plentiful emissions of paper money. With the last laws for reducing interest, severe penalties against usury were incorporated."

At the present time, the legal interest of South Carolina is 7 per cent., as it has been since 1777. The Bank interest is 6 per cent. The public notions on the subject of usury, have been totally changed by Jeremy Bentham's brief treatise on that subject ; and in a few years it is to be hoped that legislatures will cease somewhat from their mischievous propensity of governing too much ; and leaving men who have arrived at the age of discretion, to make their own contracts as circumstances dictate the convenient terms of the mutual bargain,—use pains and penalties not to annul, but to compel the performance of voluntary contracts, deliberately made, in good faith, and with a full view of the whole ground by the parties who make them.

Since writing the above note, Mr. Carrol has republished in his Historical Collections of South Carolina, a pamphlet entitled, *A Description of South Carolina* ; London, 1761, from which I make the following extract :

"*Paper Currency.*—During the former part of Queen Anne's War, the inhabitants of South Carolina exerted themselves very much in defence of that Colony, not only by fortifying Charles-Town, and building a fort to command the entrance of Ashley river, but by undertaking several expeditions against the Spaniards and Indians in Florida, &c. the charges of all which fortifications and expeditions, brought the South Carolina people so much in debt, that their Assembly finding it was in vain to struggle with difficulty, by raising annual taxes, which could not have been levied soon enough to answer the present exigency, they came to the determination to strike Bills of Credit ; at first, for about six thousand pounds, and having had experience of them, they afterwards issued more, to the amount of ten thousand pounds.

"By the laws which established those bills of credit, their currency was secured ; to proffer any payment with them was a tender in law, so that, if the creditor refused to take them, he lost his money, and the debtor was discharged from the minute of such refusal ; but they had not any instance of that kind, the funds upon which those bills were charged being so good, that they passed in all payments without any demur or dissatisfaction. The first issued of those bills had an interest of twelve per cent. per annum annexed to them ; but upon

making the second parcel of them, the Assembly was sensible of the great inconvenience of this method. For it not only made the currency of them more difficult, by reason of the endorsements, and computing the times they had been in the Treasury, but gave the Treasurer an opportunity of injuring the public, by giving credit for that time he thought fit, as often as they came into his hands. Besides, the interest gave encouragement to people to hoard them, which was a common prejudice, by keeping so great a part of the cash [paper money] from circulating in trade; and lastly, this devouring rate of interest was such a constant addition to the public debt, that, if continued, it would have made it impossible to sink, (pay) the bills in any reasonable time, unless by burthensome taxes.

“ For these several reasons, the Assembly enacted, that from that time forward, the Bills of Credit should run to all intents and purposes, as they had done, but without bearing any interest at all; and the people quickly found the benefit of it; for this both eased the public of a great burthen, and made the bills circulate more in trade, and with less difficulty among the common people. The Assembly indeed, by this Act, exposed themselves to the censure of those who little regarded the public so long as their own private interest was advanced; but they wisely considered that saving the public two thousand pounds a year was more to be regarded than gratifying the unreasonable avarice of some particular persons, and such is the opinion of their integrity, as well as of the ability of the Colony, that those bills never had yet circulated for less value than they were issued.

“ *Current Coins.*—Besides those Bills of Credit, or paper currency, there are various sorts of gold and silver coins circulating in South Carolina; the most common of those coins are French pistoles, Spanish and Arabian gold, all of which passed at six shillings and three pence the penny weight, and three pence every odd grain, before the currency of money in English Colonies was regulated by an English law; and before that regulation took place, the several sorts of silver coin current in South Carolina were received and paid at the following rates, viz:—Dutch and German dollars, and Peruvian pieces of eight, passed at five shillings each; Mexican pieces of eight, weighing twelve pennyweight, went at the same rate, and for every pennyweight above twelve to seventeen, that those last pieces weighed, three pence half-penny more was allowed: other pieces of Spanish silver money, commonly called Ryals and half Ryals were current, the former at seven pence half penny, and the latter at three pence half penny. There was not much English money among them, but what they had, passed [Anno 1710] at fifty per cent. advance: that is a crown at seven shillings and sixpence, a guinea at thirty-two shillings three pence, and so in proportion. Conformable to those rates of currency of English coins, the course or rate of exchange between South Carolina and England in the year 1710, was £150, South Carolina currency, for £100 sterling.”

Proportions of the present coins of France. *Jour. Franklin Institute* for May, 1837, p. 406—from the *Annuaire*, 1837.

The value of Gold in proportion to that of Silver, is as 15.5 to 1.	
“ “ “ “ Billon,	62 1.
“ “ “ “ Copper,	620 1.
“ “ Silver, “ Billon,	4 1.
“ “ “ “ Copper,	40 1.
“ “ Billon, “ Copper,	10 1.

Billon is a mixt metal of silver and copper.

The French are about to introduce a new coinage, and to make use of bronze ; in harmony with the decimal system of weights and measures. Counterfeiting is proposed to be prevented by great superiority of execution.

No. 281. *An Act for ascertaining the fees of Justices of the Peace*, 1709, p. 330. See the Fee Bill in p. 146 of the Reports and Resolutions of the Legislature, for the year 1823.

No. 321. *An Act to impower the Right Honourable the Governour, &c. to execute and put in force the Habeas Corpus Act, 1712, p. 399.*

The Habeas Corpus Act has been already inserted in the first volume of this edition, p. 117. The following decisions bear upon this Act, viz: John and Wm. Logan v. the State, 2 Treadw. Const. Rep. 493; the State v. Wm. Porter, 2 Treadw. 695; Ash v. O'Driscoll, 2 Tread. 698; the State v. Augustine Buyer, 2 Bay, 503; Mary Gist et al v. John Bowman et al. 2 Bay, 182; the State v. Spurgen, 1 M'Cord, 563; Ex parte Gilchrist, 4 M'Cord, 233; Harvey v. Huggins, 2 Bail. 252. See the note in 1 Brevard's Digest, 398; in the matter of Kollman, 2 Hill, 363.

No. 322. *An Act to put in force in this Province certain Statutes of the Kingdom of England, therein particularly mentioned. Dec. 12, 1712, p. 401.*

The English Acts of Parliament adopted in South Carolina, depend,

1st. Upon the specific adoption of the first section of this Act.

2nd. Upon the 3d section of this Act, comprising all the English statutes by which the rights and liberties of the subject are protected.

3d. Upon the 10th section of this Act, which makes of force all the Acts of Parliament relating to the customs, trade and navigation. (Superceded by our Independence.)

4th. Upon the 11th section, which adopts all the Acts (applicable to the situation of the then Province) between the 8th year of the reign of Queen Anne, 1710, and Dec. 1712.

5th. Upon the specific adoption of English statutes by subsequent Acts of the Provincial Assembly, as the 5th Geo. 2, ch. 7, by the Act of Assembly of 1759, section 4.

6th. Upon expressly decided cases in the Constitutional Court. As 33 Edw. 1, as to Challenge of Jurors; 2 Nott & M'Cord, 553, the State v. Barontine; the 11th Geo. 2, as to Replevin; by 2 M'Cord, 31, Pemble v. Clifford. See also, 1 M'Cord, 299, City Council of Charleston v. Price; 3 M'Cord, 44, De Bon v. Cary et al. contra.

7th. Upon the declaration in British Statutes while South Carolina was a Province, that the Act in question should be binding on the Colonies; as 25 Geo. 2, ch. 6, on Wills and Codicils.

The following table of Kings and Queens, will be found useful for reference.

TABLE OF THE REIGNS OF THE KINGS OF ENGLAND.

(*Nicolas' Notitia Historica.*)

William the Conqueror, from Oct. 14, 1066, to Sept. 9, 1087. 21 years.
 William the Second, Rufus, from Sept. 9, 1087, to Aug. 1, 1100. 13 years.
 Henry First, (Henricus Vetus) from Aug. 1, 1100, to Dec. 2, 1135. 36 years.
 Stephen, from Dec. 2, 1135, to Oct. 25, 1154. 19 years.
 Henry Second, from Oct. 25, 1154, to July 7, 1189. 35 years.
 Richard First, from July 7, 1189, to April 6, 1199. 10 years.
 John, from April 6, 1199, to Oct. 19, 1216. 18 years.
 Henry Third, from Oct. 19, 1216, to Nov. 16, 1272. 57 years.
 Edward First, from Nov. 16, 1272, to July 7, 1307. 35 years.
 Edward Second, from July 7, 1307, to Jan. 25, 1327. 20 years.
 Edward Third, from Jan. 25, 1327, to June 21, 1377. 51 years. This was the last monarch who subscribed himself Duke of Normandy, Aquitaine, and Count of Anjou (Andegaviæ). The succeeding Kings of England assumed the title of Kings of France.

Richard Second, from June 21, 1377, to Sept. 29, 1399. 23 years.
 Henry Fourth, from Sept. 29, 1399, to March 20, 1413. 14 years.
 Henry Fifth, from March 20, 1413, to Aug. 31, 1422. 10 years.
 Henry Sixth, from Aug. 31, 1422, to March 4, 1461. 39 years. But as he was restored for a short time by the Earl of Warwick, and a Parliament summoned in his name on the 15th October, 1470, this year is called the 49th Hen. 6. He died a few days after the battle of Tewksbury, which was fought May 4, 1471.
 Edward Fourth, from March 4, 1461, to April 9, 1483. 23 years.
 Edward Fifth, from April 9, 1483, to June 22, 1483. About 2 months.
 Richard Third, from June 22, 1483, to Aug. 22, 1485. 3 years.
 Henry Seventh, from Aug. 22, 1485, to April 21 (not 22), 1509. 24 years.
 Henry Eighth, from April 21, 1509, to Jan. 28, 1547. 38 years.
 Edward Sixth, from Jan. 28, 1547, to July 6, 1553. 7 years.
 Mary, from July 6, 1553, to July 25, 1554. Not two years.
 Philip and Mary, from July 25, 1554, to Nov. 17, 1558. 5 years.
 Elizabeth, from Nov. 17, 1558, to March 24, 1603. 45 years.
 James First, from March 24, 1603, to March 27, 1625. 23 years.
 Charles First, from March 27, 1625, to Jan. 30, 1649. 24 years.
 Charles Second, from Jan. 30, 1649, to Feb. 6, 1685. 37 years.
 James Second, from Feb. 6, 1685, to Feb. 13, 1689. 5 years.
 William and Mary, from Feb. 13, 1689, to March 8, 1702. 14 years. But Queen Mary died Dec. 28, 1694, from whence William reigned alone.
 Anne, from March 8, 1702, to Aug. 1, 1714. 13 years.
 George First, from Aug. 1, 1714, to June 11, 1727. 13 years.
 George Second, from June 11, 1727, to Oct. 25, 1760. 34 years.
 George Third, from Oct. 25, 1760, to Jan. 29, 1820. 60 years.
 George Fourth, from Jan. 29, 1820, to June 26, 1830. 11 years.
 William Fourth, from June 27, 1830, to July 22, 1837. 8 years.
 Victoria, began her reign, July 22, 1837.

ENGLISH STATUTES ADOPTED BY THE ACT OF 1712.

The King's Debtor dying, the King shall be first paid. 9 Hen. 3, ch. 18, 1225. p. 417.

For the preference as to priority of payment claimed by the United States, see Act of Congress, March 3, 1797, ch. 368, sect. 5; and *U. States v. Fisher*, 2 Cranch, 358--359; 9 Wheaton, 907. As to the priority of payment claimed by our own State, see the Executors Act, of March 13, 1789, sect. 26; 3 M'Cord, 377, the *Bank v. Gibbes*; 1 Eq. Rep. 450, *Commissioners of Public Accounts v. Greenwood et al.*; 2 Bail. 598, the *State v. Harris*, and the cases therein cited. See also, 25 Ed. 3, stat. 5, ch. 19, 1350.

None shall be condemned without Trial. 9 Hen. 3, ch. 29, 1225. p. 417.

The note on the words *Ibimus et Mittemus*, I consider as founded on ignorance of the unjust practices of those days. *Ibimus*, means, we will not make a personal descent upon him with troops, to exact our demands by force. *Mittemus*, nor will we send a force to 'harry' him, and compel him to pay; but a regular trial shall be first had.

In what cases a Woman shall have an Appeal of Death. 9 Hen. 3, ch. 24, 1225. p. 418.

The trial by battle, and appeals of death, are abolished in England by Act of Parliament, 59 Geo. 3, ch. 56, 1818. See Bar. & Ald. Rep. 405. *Qu.*: are they not yet in force with us? For trial by battle is an ancient common-law mode of decision; and the arguments of the Court in England, may apply here.

He is a Bastard that is born before the marriage of his parents. 20 Hen. 3, ch. 9, 1235. p. 418.

See Act of Assembly, Sept. 17, 1703, repealed by Act of Dec. 19, 1795, and the notes of Brevard thereto, 1 Brevard's Dig. 67, to provide for the maintenance of illegitimate children. See the case in 2 Treadw. Const. Rep. 459, Commissioners of the Poor v. Gaines. See also, the Act of 25 Ed. 3, stat. 2, 1350, How bastardy pleaded against him who is out of the realm, shall be tried; and 1 Nott & M'Cord, 290, Davis v. Davis; 1 Nott & M'Cord, 204, Exparte Harrington; 2 Nott & M'Cord, 425, the State v. Mayson; 2 M'Cord, 227, Vaughan v. Rhodes; 2 M'Cord, 299, the State v. M'Dould; 1 Bail. 495, the State v. Keith; 1 Eq. Rep. 139, Harten alias Gibson v. Gibson et al. 1 Eq. Rep. 134, Banvick v. Miller et al. and Jones v. Burden.

See also, the Act of 1831, in favour of the illegitimate children of John Williams.

Concealment of the death of a child, *prima facie* evidence only of guilt. 1 Bay, 167, the State v. Love.

The Masters Remedy against their Servants and other Accomptants. 13 Ed. 1, ch. 11, 1285. p. 420.

This act seems to have given rise to the action of *Account Render*, where defendant is charged as bailiff or receiver, and the first judgement prayed, is *Quod computet*, and auditors are appointed by the Court. Their award, altho' disputable, becomes, or may be made, a rule of court. They are the official arbitrators of the court. This form of action, though superceded with us by the Bill in Chancery, is yet in use in some States, as in Pennsylvania; and beneficially.

Nothing shall be taken to maintain any matter in suit. 28 Ed. 1. ch. 11, 1300. p. 423.

Haw. P. Cr. 545; 8 Ves. 125; Stat. 32 Hen. 8, ch. 9, 1540; 18 Ves. 120.

Executors shall have an Action of Trespass for wrong done to their Testator. 4 Ed. 3, ch. 7, 1330. p. 425.

See 21 Hen. 8, ch. 4, 1529, and note thereto. See the Executors of Middleton v. Robinson, 1 Bay, 56. Act of Assembly, 13th March, 1789, concerning Wills, &c. sect. 31.

The punishment of a Juror that is ambidexter and taketh money; 5 Ed. 3, ch. 10, 1331. p. 426 to 440. See 34 Ed. 3, ch. 8, p. 440, and 38 Ed. 3, ch. 12, p. 441. This ancient use of the word *ambidexter*, is not preserved in modern times. But it still remains actionable and indictable to say of a man that he is ambidexter. Thus, thou art an *ambidexter*. Godbold's Rep. 214. He is a *Daffy-down-dilly*, which signifies an ambidexter. Ruled in 1 Roll. 55, l. 15, Com. Dig. 374, slander. So I presume the accusation against a lawyer, common in the back parts of Pennsylvania, "he carries water on both shoulders," would be actionable. Daines Barrington, in his observations on the Statutes, says that a common charge in an attorney's bill in the county of Norfolk, was for money paid to the jurors.

The Statutes of JEOPAIL, 8 Hen. 6, ch. 9, 1429. 15 R. 2, ch. 2, 1389, &c. &c. p. 427 to 432. This salutary collection of Statutes, seems to confer on the courts full discretionary power to amend defects and mistakes in the pleadings and record of a cause, on such terms as may best promote the furtherance of justice, and a decision on the merits. In Pennsylvania, I have thought the Act went too far, in giving leave to amend after jury sworn; but I may be wrong. These Acts are doubtless entitled to a liberal construction.

An Act for the amendment of the Law and the better advancement of Justice, 4 Ann. ch. 16, 1705; p. 432. This also is one of the Statutes of JERSEY. See an Act of Assembly, under this title, 1720. An Act for establishing a Court of Chancery, 1720. Acts of Assembly of 1798, 1807, 1809, 1816, 1817, 1818, relating to the judiciary. See also the county court Acts of 1785, 1786, 1787, 1788, and two Acts in 1789. Also the circuit court Acts of 1789 and 1791.

As to section 4 of the present Act, see *Van Holton v. Lewis et. al.* 1 M'Cord, 12. *Miller v. Executors of Fisk*, ib. 50. *Richardson v. Whitfield*, 2 M'Cord, 148, as to pleading double. See as to the 11th section of this Act, *Morrow v. Morrow*, 1 Tread. 455, as to frivolous pleas, and *puis darrein continuance*.

Section 13 as to persons absent from the State, *Richardson v. Whitfield*, 2 M'Cord, 148. Section 20, Bailbond, see *Solomon v. Evans*, 3 M'Cord, 274. Section 1, see 1 M'Cord, 405, 566, 3 M'Cord, 84.

A Declaration what offences shall be adjudged Treason, p. 440. 25 Ed. 3, st. 5, sec. 2, 1350.

See Act of William 3, ch. 3, 1695, and the note thereto. The treason Acts of England, are owing to the personal contests for the crown, in which the people—the subjects, are considered as the property of the Monarch; and the slavish doctrine of allegiance laid down by Sir Ed. Croke in Calvin's case, makes it due not to the nation, but to the King in his personal capacity. I apprehend the treason Acts of England lost all their force here, after the adoption of our republican Constitution.

Act enabling Judges and Justices of Peace to give restitution in cases of Forcible Entry and Detainer. 21 Jac. 1, ch. 15, 1623. p. 442 to 446.

The other Acts relating to this subject commence at p. 442. They are, 5 Rich. 2, st. 1, ch. 8, 1381. See 23d section of the Jury Act, Aug. 20, 1731. 15 Rich. 2, ch. 2, explained by 8 Hen. 6, ch. 9. Of these, the former is not made expressly of force by our Act of Assembly of 12th Dec. 1712, but the second is. I agree with Judge Brevard (title *Forcible Entry*) that as the former act defines the offence and is substantially referred to by the latter, it is in fact adopted among us, under the fair construction of section 2 of the Act of 1712. I have therefore inserted it at page 442.

Cases on forcible entry. *The State v. Gilbert*, 2 Bay, 355. *The State v. Burt*, 1 Treadw. 489. *The State v. Huntingdon*, 1 Treadw. 325. *The State v. Dooley*, 2 Nott & M'Cord, 121. Vid. 1 Hawk. P. Cr. 154, & ch. 64. 3 Bl. Com. 179. 4 Do. p. 148.

I thought it expedient to arrange these Acts together, because they form a body of law on one distinct class of offences, with the mode of proceeding thereon to obtain redress.

Statutes concerning the Admiral and Courts of Admiralty. p. 446. 13 Rich. 2, ch. 5, 1389. 15 Rich. 2, ch. 2, 1391. 2 Hen. 4, ch. 11, 1400.

These Statutes are superceded by the Acts of Congress, and the decisions of the federal courts.

It shall be felony to cut out the tongue or pull out the eyes of the King's liege people. 5 Hen. 4, ch. 5, 1403. p. 448.

Will not this apply to the barbarous practice of *Gouging*?

All Deeds of Gift made to defraud Creditors shall be void. 3 Hen. 7, ch. 4, 1486. p. 453.

See the Statutes of 13 & 27 Eliz. pages 496, 499. *Wilson et al. v. Cheshire*, 1 M'Cord's Rep. in Chanc. 238.

Benefit of Clergy shall be allowed but once. 4 Hen. 7, ch. 13, 1487. p. 456.

See the note in 1 Brevard's Digest, 68, explanatory of the benefit of clergy. See also, 12 Hen. 7, ch. 7, 1496. 23 Hen. 8, ch. 1, 1531. 27 Hen. 8, ch. 4, sect. 3, 1535. 25 Hen. 8, ch. 3, 1533. 5 & 6 Ed. 6, ch. 9 & 10, 1552. 4 & 5 Ph. & Mar. ch. 4, 1557. 8 El. ch. 4, 1565. 13 El. ch. 7, 1576. 39 El. ch. 15, 1597. 1 Jas. 1, ch. 8, 1604. 21 Jas. 1, ch. 6, 1623. 22 & 23 Ch. 2, ch. 1, 1670. 3 & 4 Will. & Mar. ch. 9, 1691.

Also, Act of Assembly, March 5, 1736-7, sect. 5, relating to the stealing of schooners, &c. 11th May, 1754, sect. 1, relating to the stealing of Negroes. 9th April, 1776. 11th April, 1776. 25th Feb. 1782, sect. 18, for disposing of certain estates. 12th March, 1783, concerning the coinage, sect. 2. 16th March, 1783, sect. 1, against plundering vessels. 1785, sect. 11, Loan Office Act.—13th March, 1789, sect. 1, against stealing horses.

In 23 Hen. 8, ch. 3, 1531, above referred to, against Perjury and untrue verdicts, *Attaint* is directed, but that is now superceded by new trial.

A Sale of Lands by part of the Executors, lawful. 21 Hen. 8, c. 4, 1529. p. 457.

Before this statute, if one Executor had refused to sell, the others could not. Litt. sect. 169. Co. Litt. 113, a. It is a beneficial law, and to be construed liberally. 3 M'Cord, 29.

The following notes and references relate to Executors and Administrators generally. See 4 Ed. 3, ch. 47, 1330. 25 Ed. 3, stat. 5, ch. 5, 1350. 31 Ed. 3, stat. 1, ch. 11, 1357. 9 Hen. 6, ch. 4, 1430. 33 Hen. 6, ch. 11, 1454. 43 El. ch. 8, 1601. Peyton's case, 9 Co. 78, as to the right of action of Exec'rs against the trespassers, living the testator. Also, sections 1 & 5 of 16 & 17 Ch. 2, ch. 8, 1664. 30 Ch. 2, ch. 7, 1677. 1 Jas. 2, ch. 17, 1685. 4 & 5 Will. & Mar. ch. 24, 1692, adopted as in force, by Judges Grimke & Brevard. 25 Geo. 2, ch. 6, 1729. See also the Acts of Distribution, Intestacy and Primogeniture. 22 & 23 Ch. 2, ch. 10, 1670. The Act for settling the estates of Intestates, drawn up by Sir Walter Walker. 1 P. Wms. 27--29. Also, our Acts of Assembly, 25th May, 1745; 27th March, 1787; 4th Nov. 1788; 13th March, 1789, and my references thereto; 19th Feb. 1791; 16th Dec. 1797; 15th Dec. 1808. Also, sections 2, 6, 8, 9, of the Hotch-pot Act of 17th Dec. 1824, p. 24 of the pamphlet laws of that year; and 20th Dec. 1826.

The decided cases relating to Executors and Administrators, are so numerous and so various, that not being able to adopt any concise arrangement and classification satisfactory to myself, I drew up the following brief notices, in merely chronological order. To arrange a satisfactory digest of our Acts of Assembly and decided cases on the law of Executors and Administrators, including the federal court cases in Dallas, Cranch, Washington, Wheaton, and Peters, would form a considerable volume. The following brief references may have their use, but they occupy too much space to allow me to follow the same plan, as to other subjects.

Trespass, tort, or assumpsit, will survive to executor for goods of the testator carried away in his life-time. *Executors of Middleton v. Robinson*, 1 Bay, 56.

A legatee must apply for payment of his legacy. *Thompson et ux v. Exors. of Youngblood*, 1 Bay, 246.

Executors not answerable for what might have been the neglect or mistake of the testator. *Legatees of Ash v. Exors. of Ash*, 1 Bay, 301.

Executors or administrators not liable for property carried away by an enemy. The Ordinary of Charlestown district v. Corbet and Lightwood, 1 Bay, 322.

In construing the Act of Primogeniture, 1791, no distribution or right of representation is allowable among collaterals, farther down than brothers and sisters children. Grand children and grand nephews and nieces of the brothers and sisters of the intestates are excluded. Harriet B. Ponag ads. Christopher Gadsden et. al. 2 Bay, 293.

Assumpsit lies against Executor for money received by him through mistake. Executor of Ash v. Executor of Livingston, 2 Bay, 85.

In what cases Executors and Administrators are liable for costs, Friak & Co. v. W. Luyten, 2 Bay, 166. See also on this head Executors of Vanderhorst v. Whitner, 2 Bay, 399.

Executor of Executor represents the first testator; O'Driscoll v. Fishburne, 1 Nott & M'Cord, 77.

But he does not represent the first testator unless probate has been taken out: to constitute probate, letters of administration must be granted on the will. *In re Drayton's will*, 4 M'Cord's Rep. 46.

It is the duty of Executors to prove the will. Gibson v. Brown, 1 Nott & M'Cord, 397.

Administrators must be cited before the Ordinary to account, before they can be sued elsewhere. Montgomery v. Crosswell, 1 Nott & M'Cord, 589.

An estate is not bound by the contracts of an administrator. Nehbe v. Price, 2 Nott & M'Cord, 328.

Sale by an administrator valid, though a will be afterwards discovered and administration revoked. Benson v. Rice & Buyers, 2 Nott & M'Cord, 577; 1 Bail. 221.

Executor has his 4 years under the Statute of limitations, besides his 9 months under the Act of 1789. Moses v. Jones, 2 Nott & M'Cord, 259.

Plaintiff suing as Executor, must make protest of his letters testamentary: but if Defendant pleads the general issue, he admits that Executor is properly in Court, and cannot afterwards call for the letters. Trapier v. Mitchell, 2 Nott & M'Cord, 64. See 4 M'Cord, 344, and 1 Bail. 221.

The doctrine of implied warranty extends to Executors and Administrators. But they are personally liable only for their own misrepresentations. Duncan v. Bell, 2 Nott & M'Cord, 153.

In what cases Administrators may plead a discount. Nehbe v. Price, 2 Nott & M'Cord, 328; Mayhew v. Flake, 2 Nott & M'Cord, 398; Cunningham v. Baker, ib. 399.

Administrator neglects to plead *Plene Admin.* judgment *Fi. Fa. Nulla Bona*. This is sufficient to support a devastavit in an action on the judgement. Thomas v. Dyott, 1 M'Cord, 76.

What circumstances do or do not amount to an implied assent on the part of Executors. Johns v. Johns, 1 M'Cord, 133.

Where Plaintiff takes a decree against Executor, subject to the plea of *Plene Admin.* præter, it is an admission of correctness up to that period. Devastavit cannot be now suggested on a fact open to objection at the previous trial. Summers v. Tidmore, 1 M'Cord, 270.

Executor authorized to sell the land by public auction. They make a deed of the land. This deed need not recite a sale by public auction; the Court will

presume that the Executors did their duty and made a public sale. *Turnipseed v. Hawkins*, 1 M'Cord, 272.

Suit against Administrators who did not plead *Plene Admin. Judgment fi. fa. Nulla Bona*, Administrator's account produced as filed on oath before the Ordinary, admitting a large balance. All this amounts to evidence of *devastavit*. *Ib.* in note.

On a note payable to *bearer* transferred to testator before his death, Executor may sue in his own name, or as Executor. *Floyd v. Brooks*, 2 M'Cord, 364.

Executors as such cannot hold lands adversely to testator's title, unless under bona fide circumstances. *Thompson v. Caldwell*, 2 M'Cord, 390.

An estate is not bound by the unauthorized act of Executor's attorney. *Ib.*

Taking possession of assets, and paying the debts of deceased out of them, will constitute an Executor *de son tort*. The payments will not be allowed as discounts. *Howell v. Smith*, 2 M'Cord, 516.

One Executor removes from the State, sale by the other good. *Chanet v. Villeponteau*, 3 M'Cord, 29.

It is not necessary to summon the securities in an administration bond, when the administrator is cited before the Ordinary to account. *Lyles v. Caldwell*, 3 M'Cord, 225.

No action can be maintained at law on a guardianship bond, till the accounts have been adjusted, and a specific sum decreed to be paid over. *Ordinary v. Maddox*, 3 M'Cord, 287.

There is no privity between the Administrator of an Executor and the testator. Administration *de bon. non.* must be taken out. But an Administrator may sue upon a bond given to his intestate as Executor of another person. *Williams v. Seabrook*, 3 M'Cord, 371.

Personal estate vests in Executor before probate: he may sue, but he cannot declare, before probate. *Ib.* in note.

Administrator dismissed on application of his sureties: they are liable up to his dismissal. *Shelton ads. Cureton*, Ordinary, 3 M'Cord, 412.

An Executor, party to a cause, cannot be examined as a witness, though he takes nothing by the will. Generally, a party cannot be a witness. *Vineyard v. Brown*, 4 M'Cord, 24.

Simple contract debts due to the citizens of South Carolina, are put upon the footing of specialties in the administration of assets within the State, of a deceased person who was not a citizen of South Carolina (by Act of November 4, 1788.) But the debts to citizens are not to be paid in total exclusion of the debts to foreigners. *Mitchell v. Fayette*, 4 M'Cord, 28.

Administrator cannot plead as Administrator, and also in his individual capacity, but the Court will permit him to add a count. *Jamison v. Lindsay*, 4 M'Cord, 93.

Suit on an administration bond: plea, conditions performed: replication, non payment of a debt: Demurer, for that, Plaintiff has not alledged that Defendant had assets to pay: demurrer supported. *Jones v. Anderson*, 4 M'Cord, 113.

Suit cannot be brought on an administration bond, till administrator has been cited before the Ordinary to account, and judgement obtained against him. *Ib.*

But where creditors sue, quere, whether some further proceedings against the Administrator himself may not be necessary. *Ib.*

The lands of intestate may be sold under an execution against the Administrator, without making the heirs parties, and notwithstanding there may be personal assets. *Martin v. Latta*. 4 M'Cord, 128.

Executor's authority over the personal estate, is derived from the Ordinary: but a devisee of lands takes directly under the will from the testator. *Crossland v. Murdoch*, 4 M'Cord, 217.

Though a debt from intestate to administrator may not have fallen due, yet administrator may retain assets to satisfy it, in preference to debts of an inferior grade. *Ralph & Co. v. Gist*, 4 M'Cord, 267.

The evidence to constitute an Executor *de son tort*, must be such as shews an intention of exercising a control over the effects of the deceased. A mere removal of goods at the request of the widow, is no evidence of intentional control. *Givens v. Higgins*, 4 M'Cord, 286.

If Executor makes protest in his declaration, and Defendant pleads to the action, he admits the Executor to be properly in Court. The letters testamentary are then taken out of Court, and cannot afterwards be called for. *Warner v. Condry & Raguet*, 4 M'Cord, 344. See 2 Nott & M'Cord, 64.

Statute of limitation does not begin to run till administration taken out. *Geiger v. Brown*, 4 M'Cord, 423.

Administrator must provide for infant children of the intestate till a guardian is appointed; he must charge it in his accounts, and it will form a charge on the distributive share of the children. It will be regarded as gratuitous if not entered in the account filed before the Ordinary. *Ordinary v. M'Clure*, 1 Bailey, 7.

An Administrator has no interest in, and has nothing to do with, the real estate of the intestate. *Perry v. Brown*, 1 Bail. 48.

No agreement between the Administrator and the Ordinary to leave the estate to the management of a third person, will exonerate that third person from a suit by administrator for moneys of the estate in his hands; although the Ordinary has forbidden the payment over. *Crawford v. Elliott*, 1 Bail. 206.

All acts done by an Administrator in a due and legal course of administration are valid and binding; though a will be subsequently found and proved and administration revoked; and though that administration had been obtained by a fraudulent suppression of the will. *Foster v. Brown*, 1 Bail. 221. See 2 Nott & M'Cord, 577. Nor can the Executor maintain Trover against such Administrator. Whether Administrator has properly applied the effects that came duly into his hands, must be tried in another way. *Ib.*

Until the Executor assent to a legacy of a chattel, the property remains in him. If he permits a stranger to acquire a title to it before he assents to the legatee, the latter, though an infant, is barred as to the stranger. *Moore v. Barry*, 1 Bail. 504.

An Executor or Administrator may exercise his discretion whether to litigate or surrender goods found in possession of the deceased. He is answerable only on proof of negligence or fraud. *Chappell v. Brown*, 1 Bail. 528.

An Executor or Administrator cannot avoid a gift of the deceased as fraudulent upon creditors. *Ib.*

Action for money had and received lies by a surviving Executor against the representative of his co-Executor deceased, for money paid to that co-Executor, and which he has been obliged to pay over again to the legatees of their common testator. *Johnson v. Johnson*, 1 Bail. 601.

It is no objection in a suit on an administration bond, that plaintiff is a co-obligor, or a joint administrator, and has not accounted for his own administration. *Ordinary v. Robinson*, 1 Bail. 25. It has been often decided that no suit lies on an administration bond, till after a decree either before the Ordinary or in

the Court of Chancery. See the authorities collected in the margin of page 27. If an Administrator has not duly accounted, he may be compelled to account.

Non-payment of money decreed to an infant distributee, who has no guardian, but sues by *prochein amy*, is not a breach sufficient to sustain a suit on the administration bond. *Mitchell v. Conolly*, 1 Bail. 203.

Administrator *de bonis non*, cannot maintain suit on a contract made by the first administrator. The contract is personal, and there is no privity between the first party and the administrator *de bonis non*. *Ross v. Sutton*, 1 Bail. 126.

A negotiable note specifically bequeathed, where the maker of the note becomes Executor, is not thereby extinguished: and if the Executor assents and delivers it over, he may be sued upon it by the legal holder. *Jackson v. Heath*, 1 Bail. 355.

City Court of Charleston has jurisdiction under the Act of 1801, over actions against Executors and Administrators. *M'Kenzie v. Ramsay*, 1 Bail. 457.

An Administrator suing as such, on a cause of action that arose prior to the intestate's decease, pays no costs: even though he should declare on promises made to himself. *Jamison v. Lindsay*, 1 Bail. 78.

A decree of a sum due by the estate, is sufficient to bind the Administrator. Ordinary v. M'Clure, 1 Bail. 7.

A conveyance by an Executor subsequent to the Act of 1824, must, to be valid, be in conformity to the directions of that Act, and of the will. *Lenoir v. Sylvester*, 1 Bail. 633.

Executor *de son tort* may plead *plene admin.*, but he cannot retain for a debt due to himself, though of superior degree. *Leach v. House*, 1 Bail. 49.

What will amount to an intermeddling in the estate so as to sustain a suit on the administration bond. *Crymes v. Day*, 1 Bail. 320.

Where the assent of the Executor is necessary to title, if that assent be incomplete the title is incomplete. *Lenoir v. Sylvester*, 1 Bail. 633.

In replication to *plene administ.* it is enough to assert generally assets unadministered; and then go into evidence of facts impeaching the inventory, the debts, credits and payments. *Johnson v. Johnson*, 1 Bail. 601.

Court will not set off a judgement against an Executor in his individual capacity, against a judgement in his favor, for goods of his testator sold by him, if creditors or legatees may be thereby prejudiced. *Talbot v. Harrison*, 1 Bail. 599.

In an action by an Administrator for a conversion of the goods of the testator after his death, he sues in his individual capacity, and his administration is part of his title, which must be proved, although defendant has not cravedoyer, or pleaded *ne unques* executor. *Browning v. Huff*, 2 Bail. 174.

An Executor under a will subsequently set aside, made a lease for a year. Neither the administrator subsequently appointed, or the heir, could bring suit for use and occupation. *Boyd v. Sloan*, 2 Bail. 311.

Administrator *de bon. non*, not liable on an implied warranty for a slave sold by preceding administrator under an order of sale. *O'Neal v. Abney*, 2 Bail. 317. Administrator cannot bind the estate of his intestate by his contract express or implied. *Id.*

An Administrator cannot claim discount for an unadjudicated claim of extra compensation. *Rice v. Thompson*, 2 Bail. 339.

In a joint administration bond, with common sureties, the co-obligors are answerable for each others receipts and payments. Per Harper. *Lucas v. Curry's Executors*, 1 Bail. 403.

Liabilities of an administrator where intestate has assets in two States. *Conover & Co. v. Chapman*, 2 Bail. 436.

An Administrator may purchase at his own sale to the extent of his interest. If he have no interest, his purchase may be set aside by the parties interested, but is good till then. *Trimmier v. Trail*, 2 Bail. 480. See note of Ed. to *Drayton v. Drayton*, 1 Eq. Rep. 567.

A creditor having notice of the death of his debtor, and administration granted, must render his account within 12 months, though the administrator may not have advertised. *Walker v. Gill*, 2 Bail. 105.

Administrator appointed guardian of the distributees, charged himself in his guardianship accounts with the balance due from him as administrator: held a discharge of the administration bond. *Simkins v. Cobb*, 2 Bail. 60.

Action for the penalty of an administration bond, without setting out the condition. Plea, *non est factum*: verdict for plaintiff, who may immediately submit the condition to the same jury to assess damages. *Rice v. Thompson*, 2 Bail. 330.

Administration may be proved by the record book of the Ordinary alone, and that may be proved by any one acquainted with his signature without calling the Ordinary. *Browning v. Huff*, 2 Bail. 174.

Statute of limitations does not commence to run till administration taken out. *Witt v. Elmore*, 2 Bail. 595.

Decree of the Ordinary reaches to the last return only embraced by it. Therefore in suit on the administration bond, matters may be pleaded, that have occurred since the date of the last return. *Simkins v. Cobb*, 2 Bail. 60.

Assumpsit as administrator may be joined to assumpsit to his intestate. *Sebring v. Keith*, 2 Bail. 192.

Plene administravit pleaded as to all the goods which had come to his hands in this State. Held bad on demurrer. He must administer assets according to law, whether received in this State or another. *Conner & Co. v. Chapman*, 2 Bail. 426. What the law is as to administration in another State, and where he is specifically accountable, are ulterior questions.

Liability of sureties in administration bond under Act of 1789. See *Trimmier v. Trail*, 2 Bail. 480.

Although administrator may maintain trover on his possession alone, if his right of possession be contested, he must prove himself administrator. *Browning v. Huff*, 2 Bail. 174.

The widow of the testator is a competent witness in an action against the Executor. *Caldwell v. Stuart*, 2 Bail. 574.

The nine months protection from suits under Act of 1789, does not apply to an Executor *de son tort*. *Chambers et al. v. Davison*, 1 Hill's Rep. of 1833, at common law, p. 50.

Of priority in suits between two Executors. *Jones v. M'Neil et al.* Ib. 84.

The Act of 1824, p. 24, renders void a sale unless directed by the Ordinary, by the Court of Equity, or by the will; and leaves the property as it was at common law. Ib.

Testator directs his Executrix to sell the personal property, and no sale having been made, it was levied on in the hands of her general bailee, and sold for the debt of the Executrix. In an action against the Executrix by the bailee for taking the property, held that neither the Executrix nor the bailee were entitled to recover. Ib.

Where one is sued as Executor *de son tort*, and pleads *ne unques* Executor, which is found against him, the judgement is that plaintiff recover *de bonis testatoris si &c.* if not *de bonis propriis*. Hubbell v. Fogartie *et ux.* Ib. p. 167.

An Executor or Administrator who lets judgement go against him by default, is liable to costs *de bon. testat. si &c. et si non de bon. propriis*. Giles *et al.* v. Pratt. Ib. p. 239.

An intestate in his life time makes a gift of personal property to defraud creditors: as it never came into the hands of the administrator, it is not assets, and the creditors must resort to equity. Anderson v. Belcher. Ib. p. 246.

But if there be no administrator, and the donee had possession at the death of the donor, *semble*, he may be sued as Executor *de son tort*. Ib.

One legatee cannot compel another to account. The Executor only can do this. Newman *et ux.* v. Wilbourne *et al.* 1 Hill's Chancery Reports, 12.

Administrator takes a note on a sale of intestate's property to himself, and dies. The property of that note is in Administrator *de bon. non*. Miller v. Alexander. Ib. 20.

The Court will not discharge an Executor from his office. Heyward v. Wells. Ib. 61.

A Court of Equity cannot substitute one Executor for another, but on application of *cestui que* trust, will appoint a receiver. Exparte Challuchat. Ib. 150.

An Executor or Administrator who litigates in good faith, is entitled to be reimbursed his expences out of the estate. Capehurst *et ux.* v. Administrators of Huey. Ib. 411.

Sale by an administratrix, a will proved, and administration revoked: administratrix a purchaser at her own sale. The purchase cannot be avoided by the Executor, only by legatees. Price, Executor, v. Nesbitt. Ib. 401.

A widow of an Administrator appointed in right of his wife, is not bound for the husband's waste of the property, though she signed the bond. His administrator is accountable. Spann v. Stewart *et al.* Ib. 332. Capehurst *et ux.* v. Administrators of Huey. Ib. 410.

A Trustee who has neglected to make annual accounts will be charged with negro hire. Lyles v. Lyles Administrator. Ib. 87.

Executor or Administrator in a complicated and difficult estate may institute proceedings against creditors to have their claims adjusted. Brown *et al.* v. M'Donald. Ib. 300.

Can the Ordinary appoint an Administrator where Executor has removed out of the State? Ib. 150.

Executor not entitled to commissions or extra services, for the years in which he has neglected to make returns. Fraser *et ux.* v. Vaux, Executor. Ib. 210.

An Administrator may retain the whole debt due to himself, as against a creditor who has not delivered in his account in due time. If there be assets in the hands of Administrator his debt is considered as paid, and he cannot charge interest. Under *plene administravit*, he may give in evidence a debt due to himself. Administrator of Montaigne v Keith, 2 Hill, 340.

An agreement by an Administrator to pay interest on a judgement, against him as Administrator, which did not bear interest, will not entitle the plaintiff to collect it. Such an agreement will not bind the estate. Pinckney v. Singleton, 2 Hill, 343.

Under what circumstances a bond in the hands of one acting as Executor of the obligor will be considered as paid. Richardson v. Mitchell, administrator. 2 Hill, 352.

To render executor or administrator liable *de bonis propriis*, there must first be judgement against him in his representative character. Then an action founded on that judgement suggesting a devastavit. Execution *de bonis propriis* can only issue on a judgement in this last action. *Brown v. Hillegas*, 2 Hill, 447.

An open account does not bear interest; and an agreement of an administrator to pay interest, will render him personally liable, but will not bind the estate. *Ordinary v. Bonner*, 2 Hill, 468.

The bona fide assent of the Executor to a legacy, vests it at once in the legatee. After such assent, the sale of the legacy under an execution against the Executor would be set aside. *Alexander v. Williams*, 2 Hill, 522.

The general rule is, that no trustee shall make profit to himself out of the trust estate. Hence they must account for all the interest which they make and receive. The rule adopted is to charge them with interest on annual balances, except for the *current* year. *Davis v. Wright*, 2 Hill, 560. This rule is founded on the Act of 1789, which requires annual returns of receipts and expenditures, forming an account stated, on which interest is due. *Ib.* *Prima facie*, executor and administrator are liable for the sale bill, and the onus of getting rid of it, lies upon them: but they are not chargeable with interest on the sale bill till the end of the current year in which it falls due. *Ib.*

Mode of computing interest on debts paid by Executor or Administrator. *Ib.*

Administrator of an administrator is not bound to make interest on the funds of the first estate that were in the hands of his own intestate. The proper representative must look after the property when duly committed to him. *Ib.*

Mode of stating Executors' and Administrators' accounts. *Jones v. West*, 2 Hill, 561, note.

The distributive share of an absent debtor, of personal estate in the hands of an Executor, is not the subject of attachment. *Young v. Young*, 2 Hill, 425.

The Ordinary has no jurisdiction over the surety in an administration bond. He cannot call him to account, and his decree against the surety is a nullity. *Ordinary v. Bonner*, 2 Hill, 468.

CHANCERY CASES.—(1 and 2 Hill already inserted.) An Executor authorized to lay out money in negroes or such other manner as he shall think most conducive to the interest of the minor. *Exparte Robert Gibbes*, 1 Eq. Rep. 126. (Sometimes cited as *Desaussure's Reports*.)

An Executor directed to sell testator's estate and apply from the proceeds his proportion of co-partnership debts. *Executors of Laurens v. Executors of Hawkins*, Eq. Rep. 144.

Executors cannot take estate to themselves without a regular sale: and the Court will compel them to account even after many years. *Lindsay v. Administrators of Lindsay*, 1 Eq. Rep. 150.

Though Executors by Act of 1745 are made liable for the amount of the appraisement, they are not authorized to take the property at the appraised value. *Ib.* 153.

Commission not allowed on delivering up certain bonds. 2½ per cent. allowed on monies received and on monies paid. 1 Eq. Rep. p. 160, in the note.

If Executor claims extra compensation, he must go to a jury for it. *Ib.*

The Court refused to exonerate the Executor and appoint a Guardian to manage the estate. *Exparte Flagg et ux.* 1 Eq. Rep. 164.

Injunction against Executors from selling or committing waste. *Wightman et ux. v. Executors of Brown*, 1 Eq. Rep. 166.

A judgement fraudulently confessed by Executor decreed void. *Ib.* 167.

Whether an Executor not so directed by the will, is bound to put monies out to interest, or shall be charged with interest on indisposed balances. *Executor of Stock v. Executor of Stock*, 1 Eq. Rep. 191.

Executor retaining monies unproductively, which he might have put out to interest, or submitted to the Court, shall be charged with interest. *Ib.* note.

A husband receiving large sums on bonds in right of his wife, an Executrix, and dying leaving an estate insufficient for all his debts, the Court set up all sums received on bonds as bond debts, though to the prejudice of other creditors. *Executors of Gadsden v. Executors of Lord*, 1 Eq. Rep. 208.

Executors *de son tort*, and strangers intermeddling with the estate, shall account as trustees, 1 Eq. Rep. 214, in note.

In a charge of wasting assets, the Court will interfere to secure a legacy not yet due. *Hopkins v. Wainwright*, 1 Eq. Rep. 302.

An Executor's estate in the hands of his Executor, made liable for misconduct in selling the estate of the testator without authority; also for defective securities. *Smith & Bonsall v. Executors of Smith*, 1 Eq. Rep. 304.

Executor selling the estate unnecessarily and without authority, is responsible for bad debts. *Evans et al. v. Executors of Evans*, 1 Eq. Rep. 515.

Executor being a bond creditor, bound to apply the monies of the estate to the extinguishment of his bond. *Ib.*

One Executor not responsible for the separate acts of another. *Ib.* 520.

Travelling expences and overseer's wages, like all demands for extra services, can only be recovered at law on a *quant. meruit*. *James Jacks et ur. v. G. Henderson*, 1 Eq. Rep. 544.

Executor assents to a legacy on personal property: he cannot on failure of assets pursue the legacy against the claims of creditors who have obtained judgement against the legatee. *Executors of Drayton v. Glen Drayton et al.* 1 Eq. Rep. 557. But he becomes personally liable himself after the assets are exhausted. *Ib.*

Executor may purchase, (if without fraud) at his own sales. *Ib.* 567.

(I doubt if this dictum of Chancellor Matthews would now be considered as law. The general rule of equity in cases of trust sales, I apprehend to be this: no person in whatever character, confidentially entrusted to sell for the benefit of another, and who undertakes so to do, can purchase at his own sale for the benefit of himself. Unless with leave of the Court, on a statement by affidavit, of special facts that will render the permission expedient. The court has not considered such irregular purchases as absolutely void, but as voidable even after a lapse of many years, on the application of persons interested in the estate. The principle would have justified the Court, as I think, in considering them as void; in preventing the evil rather than curing it; but the current of decisions has gone no farther than voidable. I apprehend this maxim applies to attorneys, solicitors, agents, factors, and every person acting as a trustee. It is to be hoped, this wholesome rule of legal morality, will not be frittered away, as many others have been, by distinctions, limitations and exceptions—temptation loopholes for fraud to creep in.—*Edit.*) But see *Trimmier v. Trail*, 2 Bail. 480t

Executor making sales, and not taking proper securities, is liable, if the purchaser becomes insolvent. *Ib.* and 1 Eq. Rep. 304, 515.

Executor taking his own legacy before the debts are paid, his co-Executors may compel him to restore the assets till the debts are settled. *Ib.* 565.

Executors are trustees for the Legatees, and bound to follow the directions of the Will. *Boone et al. v. Exors. of Durand*, 1 Eq. Rep. 588.

Interest allowed on the annual balances in the hands of Administrators. *Brailford et ux v. Hayward*, 2 Eq. Rep. 37.

An administrator and heir may compel a co-administrator to account. *Wright, administrator, v. Wright et al.* 2 Eq. Rep. 242.

An Executor entering upon the lands of his testator, is a trustee for the heirs. But if he claims to hold adversely, with notice to the heirs, the Court will direct an issue at law to try title. *Ramsay et ux v. Deas, executor*, 2 Eq. Rep. 233.

Testator directs a division of his estate. This is no authority to the Executor to divide it. *Shoolbred v. Drayton*, 2 Eq. Rep. 250, in note.

A sale of lands directed by the will. This confers no authority on the Executor to sell. Executor purchased at that sale, and heir wished to hold him to the purchase, but Court refused. *Ib.*

An Executrix not allowed credit for payments made at the verbal request of the testator, not reduced to writing. *Kerr et ux v. Betler*, 2 Eq. Rep. 279.

A decree against an Executor objected to; on re-hearing, his accounts were referred to a master to settle. *Webb v. Bellinger, Exor.* 2 Eq. Rep. 482.

Executor paying a legacy before the debts were paid, although against the express directions of the will, ordered to repay the legacy with interest. *Cochran v. Cochran*, 2 Eq. Rep. 521.

Executor is not bound to plead the Statute of Limitations where he believes the debt to be just. Nor will equity set aside the judgment obtained, for the purpose of enabling the devisees to plead the statute. *Walter et ux v. Radcliffe*, 2 Eq. Rep. 577.

Before legatees who have been paid, can be compelled to pay creditors, the executors must be called to account. *Executors of Elliott v. Drayton*, 3 Eq. Rep. 29.

An Executor qualified before 1789, is bound to account annually under the directions of that Act, or lose his commissions. *Assignees of Ramsay v. Ellis et al.* 3 Eq. Rep. 78.

Executors and trustees residing abroad, not bound to give security to a legatee where confidence has been reposed by the testator, and no charge of misconduct. Where, too, the legacy was contingent. *Higgins et ux v. Executors of Fabre*, 3 Eq. Rep. 93.

Executors not liable for the acts or omissions of the Master. *Thompson et al v. Wagner*, 3 Eq. Rep. 94.

The personal estate still remains the primary fund for the payment of debts. *Halyburton v. Kershaw et al.* 3 Eq. Rep. 115.

Interest is chargeable on money kept in the Executor's hands, unless he had good reason for so keeping it. The interest account must be stated *per se*, on annual balances; avoiding compound interest. *Darrell v. Eden et ux.* 3 Eq. Rep. 241.

Executor made liable for gross neglect in not recovering a debt where the debtor became insolvent. *Witherspoon v. M'Calla*, 3 Eq. Rep. 245.

(See obiter, a note in this case collecting the authorities as to the measure of value of land from whence a purchaser has been evicted by title paramount. p. 248.)

Executor sells slaves at auction. Purchaser finds in the Sheriff's office an old execution returned nulla bona, and refuses to comply with the purchase unless

Executor will discharge that execution. Sustained by the Court. *Brown v. Gilliland*, 3 Eq. Rep. 545.

Reply: the negroes were acquired after the return of *nulla bona*. Per. Cur: The old execution attaches, and the executor cannot make title till he discharges it. *Ib.*

The husband of an Executrix decreed to give security from well founded apprehensions of his wasting the assets. *Powel v. Thompson et ux.* 4 Eq. Rep. 162.

A husband managing the trust estate of his wife, purchased on his own credit a saw-gin, which was applied to the use of the estate. Decreed that the value of the gin should be paid for by the estate; the husband having been sued for the amount of a note he gave for the gin. *Cater v. Eveleigh*, 4 Eq. Rep. 19.

A widow about to marry, settles her interest in her former husband's estate with the knowledge of her intended husband: the settlement valid. (The reference in the Index is inaccurate.)

A joint administrator cannot sue the securities in an administration bond, as creditors may. Nor are the sureties primarily liable in a court of equity; for in general, the law will afford an adequate remedy. *Hoell et ux v. Blanchard et al.* 4 Eq. Rep. 24.

Receipts given to an administrator for shares in a personal estate, shall not extend to the real estate, unless so distinctly expressed. *Harris v. Dinkins et al.* 4 Eq. Rep. 60.

Parol evidence not admissible to shew the intention of such receipts. *Ib.*

An Executor or Administrator omitting to plead, and permitting judgment to go against him by default, may apply to this court to shew the real facts of the case, and the court will decree accordingly. *Lenoir v. Winn et al.* 4 Eq. Rep. 65.

The State, by taking a particular security (as mortgage) does not lose its general priority as fixed by law, though the security turns out insufficient. *Lenoir v. Winn et al.* *Ib.*

Executors and Administrators not liable for each other's acts, unless where there is connivance or gross negligence. *Ib.* See also, *Knox v. Pickett*, 4 Eq. Rep. 92.

Executors and Administrators chargeable with interest on monies received and not applied in due time to payment of debts. *Ib.*

Administrator having neglected to pay a judgment debt due from his intestate, and having paid inferior debts, the surety in the bond having paid it, is entitled to be repaid as a judgment creditor, out of the administrator's estate. *Ib.*

The Court of Appeals will admit complainant to amend his bill, so as to have the whole merits before them, and remit the cause for re-examination. *Ib.*

Administrator liable for costs incurred by his own neglect, but not for costs incurred by regular defence of the estate. *Knox v. Pickett*, 4 Eq. Rep. 92.

The Court will follow a note of hand taken by the administrator in his own name for assets sold by him, and will enforce it by injunction against his private creditors. *Glass v. Baxter*, 4 Eq. Rep. 153.

A person exclusively entitled to the estate of an intestate, is bound to take out letters of administration before he takes possession. *Elders v. Vauters*, 4 Eq. Rep. 155.

Executor selling personal estate on credit, without security, is liable personally in case of the insolvency of the purchaser, that insolvency being first regularly ascertained. *Stukes et al v. Collins et ux.* 4 Eq. Rep. 207.

A legacy given to an executor, as executor, cannot be received till he makes himself executor. *Administratrix of Rothmahler v. Myers & Myers*. 4 Eq. Rep. 215.

Executors retained the estate for thirty years, on the plea of unsettled debts. The only heir and devisee receiving no benefit from it. A bill was filed to compel an account. The length of time elapsed is no bar to the suit. *Clifton v. Exors. of Haig*, 4 Eq. Rep. 341.

Nor is the bill filed too soon, although there be outstanding debts. *Ib.* 342.

A partial devisee may call executor to account as to the fund in which he is interested. *Ib.* 345.

Administrator liable for interest on monies needlessly and for an unreasonable time kept in his hands, and with unsold furniture, which he kept and used. Nor is he entitled to commissions if he does not make regular annual returns. *Benson v. Bruce et ux.* 4 Eq. Rep. 463, 555, 369.

An Executor cannot sell a specific legacy unless the debts of the estate require it; least of all for his own debt. Executor cannot sell personal estate, without leave of the Ordinary, under Act of 1789. If he be interested in part of a legacy this does not authorize him to sell more than his own share. *Saxon et ux v. Barksdale et al.* 4 Eq. Rep. 522.

An executor must apply to a jury for compensation for extra services, per Act of May, 1745. *Ruffet et al v. Exors. of Summers*, 4 Eq. Rep. 529.

Executors not entitled to charge for overlooking a plantation, if they draw commissions. *Jenkins et al. v. Fickling*, 4 Eq. Rep. 369.

What commissions and compensations are allowed on extraordinary occasions. *Logan v. Logan*, 1 M'Cord's Ch. Rep.

Executor cannot receive more than $2\frac{1}{2}$ per cent. for receiving and $2\frac{1}{2}$ per cent. for paying money. If he claims extra compensation, he must go to a jury. On a *quant. mer.* no difference between services rendered and money paid. *Ib.*

Executor's commissions cover all ordinary expenses. He will not be allowed money paid to an accountant for drawing out executor's accounts. But the Court, without sending him to a jury, will allow him for aid in adjusting difficult and complicated accounts of the estate, counsel's fees, overseer's wages, &c. *Ib.*

Executor ought to make his return *annually*, to prevent complicated accounts. *Ib.*

Lands may be sold under an execution against executor or administrator, tho' there may be personal estate. *Smith et al. Exors. of Cripps v. Exors. of Smith*. 1 M'Cord. Ch. Rep. 148.

The executor or administrator of a deceased person only, can maintain an action for an account due the deceased. *Davis v. Rhame*, 1 M'Cord, Ch. Rep. 191.

Persons entitled under the statute of distributions, must claim under partition or under distribution by an administrator. *Ib.*

Executor allowed to retain funds in his hands to pay expenses of suits instituted; the retention being *bona fide* and prudent. *Pace v. Burton*, 1 M'Cord's Ch. Rep. 247. But the general rule is, that on funds unnecessarily retained, the Court will allow interest. *Ib.*

Purchases by an executor at his own sales, made under direction of the will, are void; and voidable in the hands of a purchaser from him with notice express or implied. *Edmonds v. Crenshaw*, 1 M'Cord's Ch. Rep. 252. (See Editor's note to 1 Eq. Rep. 557, and 2 Johns. N. York Ch. Rep. 252.)

Lis pendens is not notice to all the world: it is so to the parties interested in the suit, and to purchasers of litigated property. Ib. 264.

Land is assets for the payment of debts. Gregory's exor. v. Forrester, 1 M'Cord, Ch. Rep. 324.

Personal property does not descend to the heir at law. Ib.

Generally, executor or administrator is the only organ through whom the next of kin can have his rights ascertained, or a creditor get at the funds of the estate, or to whom a debtor is answerable, except where executor is bankrupt or will not act. Ib.

To enable a legatee to proceed against a debtor, there must be special circumstances, as collusion, insolvency, &c. Ib.

In what cases a bill may be brought by a creditor against a legatee. Ib.

To make a party liable as *Executor de son tort*, he must be sued as Executor. Ib.

It is still unsettled how far Executors and Administrators may exercise control over the lands of the deceased. Ib.

Lands may be sold under a judgment obtained against an executor or administrator. Where there is no executor or administrator, a bill will lie against the heir at law for the proceeds of lands which he has sold; the personal estate being fully administered. Ib.

A power in a will to sell such property of the testator as is useless to the estate, will not authorize the executor to sell any property he chuses. M'Cants v. Bee, 1 M'Cord's Eq. Rep. 393.

Where a suit is brought against an executor, and all the creditors are advertised to come in by a day given, though a party come in afterwards, he may be let in, if the funds are yet in the control of the Court; he paying such expenses as the delay may render reasonable. U. States v. Shubrick's Exor. 1 M'Cord's Ch. Rep. 406.

An order for distribution before the debts are paid, will not be made till the executors are secured. Trescott v. Trescott's Adm'rs. 1 M'Cord's Ch. Rep. 430.

The representatives of an Executor or Administrator are liable for a *devastavit* committed by him. Even in the case of *Exor. de son tort*. Ib.

Where legatees have received their portion before the debts are paid, a creditor may file his bill against both the executor and legatees for an account. The general principle is, that the executor must first account: but there are many exceptions. Ib.

The liabilities and commissions of an Executor considered. Tavaux et ux v. Ball, Ib. 458.

The general rule is, that executors are liable to interest for funds remaining in their hands, whether they use them to their own profit or not. Ib. Except where money is prudently retained to meet exigencies, or to wait for investment. Ib. The executor of a planting estate is liable for interest only on the annual balances; and six months are allowed afterwards to make investments. Ib.

An Executor is allowed ten per cent. for investing funds at interest, and also 2½ for the final disposal or payment of it under the directions of the will. But not where the fund is still under his control, and the disposition not final. Ib.

Reasonable caution and diligence is required of an Executor. He is not liable, if his factor having allowed a few days credit in the usual course of business, the purchaser fails. Ib.

Legal assets are first liable to all liens existing at the death of the debtor, before distribution by the executors. Rutledge's Adm'r. v. Hasleherst. Ib. 468.

Outstanding debts are legal assets, and must be so applied. Equitable assets are such as can only be made effectual by the aid of a court of equity, and are subject to the rules of equity. Legal assets are distributable according to the act. *Ib.*

Where an Executor receives money on a bond or judgment, and retains it, it stands against him only as a simple contract debt. *Rolain v. Derby*, 1 M'Cord's Ch. Rep. 476.

No person but an administrator can sue at law or in equity for the property of an intestate. *Farley v. Farley*, 1 M'Cord's Eq. Rep. 514.

None but the executor or administrator can call another person to account for any thing due the deceased. *Ib.*

Executors, how they shall account and pay interest. *Black et al. v. Blakely*, 2 M'Cord's Ch. Rep. p. 1, and *Wright v. Wright*, 200 et seq.

No commissions allowed unless the accounts are plain and intelligible. *Black et al. v. Blakely*, *Ib.* p. 6.

An Executor may at all times apply to the Chancellor for directions. *Ib.* 7.

Ordinary must strike out all charges not properly vouched. *Ib.* 8. And *Wright v. Wright*, same vol. 197. He may allow time to produce vouchers: *Ib.* 8. Not allowed commissions for those years when he does not produce accurate annual accounts. *Ib.* 9, and *Wright v. Wright*, *Ib.* 195.

Executor charged with costs where his conduct is improper. *Ib.* 9.

Where annual rests for interest ought to be allowed. *Ib.* 10, 202.

Equity jurisdiction and practice. *Butler v. Ardis*, 2 M'Cord's Ch. Re. 60.

Entitled to be refunded costs and counsel fee paid in a cause against the estate. *Warden v. Burts*, 2 M'Cord's Ch. Rep. 76, 77, 82; and all *bona fide* advances.

Charged with interest from the time of receiving the fund to the commencement of the suit, and for all principal and interest he has received. *M'Caw et ux v. Blewitt*, *Ib.* 103.

He cannot convert a gratuitous undertaking into a demand. *Ib.* 104.

Bill filed against Executor for a debt due from the estate, for which he had given his own note, need not include legatees, no distribution having taken place. *Douglas v. Frazer*, *Ib.* 106. His note does not exempt the estate from liability: *Ib.* 111.

The next of kin, exclusively entitled, cannot maintain a suit in equity for the recovery of property till he has administered. *Bradford v. Felder*, *Ib.* 169. But the decree may be suspended till he has taken out administration; which he may state as a fact, by way of amendment. *Ib.* 169.

An Executor recovered against an Administrator in his (the executor's) own right. The testator's estate was indebted to the administrator. The executor and administrator mutually settled these cross claims by an agreement. The Court will support that agreement, although one of the parties to it has left the State. *Nettles v. Elkins*, *Ib.* 182.

The Executor is the only proper representative of the estate, and is the party to be sued. A legatee may be sued with him, but not without him. Non-residents in the State cannot be made parties unless they have property in the State. *Winstanley v. Savage*, 2 M'Cord's Ch. Rep. 438.

An administratrix allowed sums expended for the clothing and education of the children, prior to notice, and while the estate was deemed insolvent. *Darby v. Darby's Creditors*, *Ib.* 451.

Maintenance must be paid out of income. *Teague v. Dendy*, 2 M'Cord's Ch. Rep. 211, and *M'Dowell & Caldwell*, *Ib.* 43.

An executor not allowed commissions unless he makes his annual returns to be examined by the Ordinary. 2 M'Cord's Ch. Rep. 195, *Wright v. Wright*: And if the executor has done his duty, he is entitled to commissions on the aggregate sum paid over to the distributees. *Ib.* He is entitled also to commissions on money placed out at interest either in his own hands or those of others. *Ib.* He is also entitled to 10 per cent. on the accumulation of money which he has placed out at interest; but not when he is decreed to pay it over at the conclusion of his administration on moneys retained by him. *Ib.* 195.

The inventory is the only evidence a party interested in an estate can produce against an executor; but that is conclusive against him, and he must show how he has disposed of the property. *Ib.* The Ordinary should not allow an executor's accounts unless the proper vouchers be produced, or their acceptance accounted for. *Ib.* 197. The Ordinary's return should shew the nature of the evidence on which it is founded. *Ib.* Also, *Black et al v. Blakely*, same vol. p. 6.

An Executor may show that there is a mistake in his return: otherwise he is bound by it. *Ib.* 198. Although the evidence produced before the Ordinary is not conclusive in favour of the return, it should be received for as much as it is worth, and circumstances to be taken into consideration. *Ib.*

An Ordinary is not to be presumed to have passed accounts without sufficient evidence of their correctness: and therefore accounts passed sixteen years ago, ought to be a sufficient protection to the executor; subject however to impeachment by those who bring the proofs of incorrectness or fraud. *Ib.* 197.

An Executor cannot sell without permission of the Ordinary; if he does, he is chargeable with interest. *Ib.* 198.

If he suffers the family of the testator to take possession of property, they are his agents, and he must account for it. *Ib.* 199.

He has no right to exceed the income of the estate, or to contract debts for any purpose without the leave of the Court. *Ib.* At least he is bound to show that any advances beyond the income were necessary and prudent. *Ib.* The Court, on application, will allow such provision out of the estate, as may be necessary. *Ib.*

If an Executor exhibit his account embracing several years, he will be allowed commissions on that year only when his account is rendered. If the transactions of each year are not kept distinct, no commissions ought to be allowed. *Ib.* 200.

The question of annual rests considered. *Ib.* 200.

Interest is due on interest, where the will directs an annual payment to the legatee. *Ib.* 202.

But interest is not to be calculated with annual rests, on monies in an Executor's hands; though some cases may require it. *Ib.* As if the Executor keeps the funds against the direction of the will, he must pay interest with annual rests. *Ib.* 203. The same strictness not required in this State as in England, on account of the difficulty of investing funds here. *Ib.*

Disobedience to the directions of the will, or calling in money which is accumulating, or using it for his own purposes, will render the Executor liable to annual rests. *Ib.* 204.

All profits belong to *cestui que trust*. *Ib.*

For the rule for calculating interest on partial payments, see *Ib.* 204.

Defendant purchased corn of a widow who had not been appointed executrix or administratrix; of which he was not apprised. This does not make him Executor *de son tort*. *Johnson v. Gaither*, 1 Harper's Rep. 6.

Administrators are liable, *de bonis propriis*, when they plead a plea which is found against them, or is untrue in fact. *Smith v. Goggans*, Ib. 52.

An Executor who did not qualify, sold a slave belonging to the estate, but not in his capacity of executor. Held, that he must be considered as having sold as executor, though he had not proved the will, or named himself executor in the bill of sale. He who does an act which he cannot effectually do unless in a particular capacity and character, will be presumed to have so done it. *Maywood Ads. of Legge*, Ib. 116.

An Executor authorized by the will to sell land, must convey the land himself; he cannot convey by attorney. *Black v. Erwin*, Ib. 411.

An infant purchased a horse, and gave a promissory note. His administrator may set up the plea of infancy against the note. He sold the horse as part of the intestate's estate: this is no confirmation of the infant's purchase. *Counts v. Bates*, Ib. 464.

Much good matter as to Executors and Administrators is to be found in Serjeant Williams's notes to Saunders's Reports.

For Pirates and Robbers at Sea. 27 Hen. 8, ch. 4, 1535. p. 465.

See statute of 28 Hen. 8, ch. 15, 1536; and Act of Assembly 27 Feb. 1788.

Piracy at sea, is that kind of depredation and robbery which would be a felony on land. 1 Hawk. P. C. ch. 37, sect. 10.

The attempt of the English fanatics to make the slave trade piracy is an unjustifiable legislation for other nations, on a subject which belongs to the jurisprudence exclusively of each foreign nation; the hasty coincidence of opinion of Judge Story, notwithstanding. That the slave trade has been and is subject to great abuses, no one can dispute; not more than the factory system of England: but the compulsory jurisprudence of Great Britain on the subject, is an assumption of unauthorized jurisdiction, and an arrogant domination over other nations, which ought not to be submitted to. We, of the United States, have abolished the slave trade from Africa, by the laws of the United States; but I hope we shall defend that measure on the ground of our own rights, and refuse to call it piracy in obedience to British dictation.

An Act concerning Uses and Wills. 27 Hen. 8, ch. 10, 1535. p. 466. 25 Geo. 2, ch. 6, 1752. post p. 580.

A bargain and sale is good under this Act. *Lessee of Rugg v. Ellis*, 1 Bay. 107. *Wilson et al v. Cheshire*, 1 M'Cord's Ch. Rep. 236.

Statute concerning Marriage. 32 Hen. 8, ch. 38, 1540. p. 475. See 1 Jas. 1, ch. 11, p. 508.

In this State, marriage is a civil contract of mutual partnership and personal cohabitation during life, under the provisions of the laws passed on this subject. The parties are, the man, the woman, and the State. The State is interested that the contract shall be fulfilled beneficially for the progeny, of whom the future citizens are to be composed. The contract in South Carolina is held to be indissoluble from whatever cause but death; no divorce *a vinculo matrimonii* ever having been granted in South Carolina. *Vaigneur et al v. Kirk*: (See 2 Eq. Rep. 644, note.) Many theoretical objections, of a very grave character, may be made against this State doctrine, but as yet it appears to work well; and there is no ground from past experience to justify any change in the received law on the subject.

An Executrix having a right to the possession of an estate for life, or widowhood, purchased slaves out of the mesne profits. They are her own. *Lyles v. Sims*, 1b. 42.

See *Carolina Law Journal*, vol. 1, p. 297, as to Marriage Settlements, and 363, as to Liabilities of the Husband for the Wife's debts.

The numerous references relating to *MARRIAGE*, may be classed thus:

- I. Acts and cases relating to Marriage generally. 1 *Car. Law Jour.* p. 384.
- II. Relating to Marital rights, liabilities and disabilities.
- III. Relating to Marriage Portions.
- IV. Relating to Marriage Settlements generally.
- V. Relating to the registering and recording of Marriage settlements. 1 *Car. Law Jour.* 357.
- VI. Relating to the separate estate of the wife.
- VII. Relating to settlements decreed in consideration of property accruing by or in right of the wife.
- VIII. Relating to the personal property of the wife, reduced or not reduced into possession by the husband.
- IX. Relating to ill-usage, alimony and separation.
- X. Relating to Dower, will come more appropriately under the Acts of 1795, for the facilitating the conveyance of Real Estate, and the Act of 1824, sect. 3, to alter the law in various particulars; but for the sake of bringing matrimonial cases together, they are inserted here.
- XI. Relating to Feme Coverts.
- XII. Relating to Feme Sole Traders.

I. *Acts and Cases relating to Marriage generally.*

See Stat. 1 Jac. 1, ch. 11, 1604. Act for establishing religious worship, section 26, 34, Nov. 30, 1706. Act relating to insolvent debtors, section 8, April 7, 1759. Also, section 47 of the Act for establishing county courts, March 17, 1785, as to recording marriage settlements. Also, Act abolishing primogeniture, 1791, (3 *Eq. Rep.* 135.) Also, Act of Dec. 21, 1792, amending the same. Also, Act of 1795, to facilitate the conveyance of real estate. Also, hotchpot Act of 1824, to alter the law in various particulars, section 3. Also, Act of Dec. 20, 1832.

Cases.—*Brown v. Spand*, 2 *Mill. Const. Rep.* 12; *Cookville v. Calhoun*, 1 *Nott & M'Cord*, 287; *Allen v. Hall*, 2 *Nott & M'Cord*, 114; *Brown v. Killingworth*, 4 *M'Cord*, 429; *Wright v. Wright*, 2 *Eq. Rep.* 244; *Vergneur et al. v. Kirk et al.* 2 *Eq. Rep.* 640; *Young v. Naylor*, 1 *Hill Ch. Rep.* 383; on colored marriages, *Car. Law Jour.* 92; Law of marriage generally, *ib.* 384; Foreign divorces, *Car. Law Jour.* 377.

II. *Relating to Marital Rights, Liabilities, and Disabilities.*

Roach v. Williams, 2 *Mill. Const. Rep.* 202; *Cusack et ux. v. White*, 2 *Mill.* 282; *Sturginger v. Hannah*, 2 *Nott & M'Cord*, 147; *Powel v. Brown*, 1 *Bail.* 100; *Freer v. Walker*, 1 *Bail.* 184; *Commissioners of the poor v. Gansett*, 2 *Bail.* 320; *Jones v. Cole*, 2 *Bail.* 330; *Park v. Hopkins et ux.* 2 *Bail.* 408, 411; *Gore et al. v. Waters*, 2 *Bail.* 477; *Guphill v. Isbell*, 2 *Bail.* 349, as to limitation Act of 1712; *Vaun v. Frederick*, 2 *Bail.* 303; *Proctor v. M'Call*, 2 *Bail.* 298; *Caldwell v. Stuart*, 2 *Bail.* 574; *Car. Law Jour.* 363; *Lindsay v. Lindsay*, 1 *Eq. Rep.* 153; *Bethune et al. v. Beresford et al.* 1 *Eq. Rep.* 174; *Gadsden v. Lord*, 1 *Eq. Rep.* 208; *Willingham v. Simons*, 1 *Eq. Rep.* 272;

Grimke v. Grimke, 1 Eq. Rep. 366; Haig v. Haig, 1 Eq. Rep. 439; Reynolds v. Calder, 1 Eq. Rep. 355; Keith v. Pusy, 1 Eq. Rep. 354; Knox et al. v. Picket et al. 4 Eq. Rep. 92; Powel v. Thompson et ux. 4 Eq. Rep. 162; Buckner v. Smith et al. 4 Eq. Rep. 372; Moore et al. v. Henderson et al. 4 Eq. Rep. 459; Tucker v. Executors of Stevens, 4 Eq. Rep. 533; Wilson v. Cheshire, 1 M'Cord, Ch. Rep. 233; Frazier v. Hall et al. 1 M'Cord's Ch. Rep. 275; Davis v. Rhame, 1 M'Cord's Ch. Rep. 191; Thomas et ux. v. Shepherd, 2 M'Cord's Ch. Rep. 40; Phelon v. House et al, 2 M'Cord's Ch. Rep. 430; M'Lemore v. Blocker, Harper's Ch. Rep. 272; Terry v. Hopkins et al. 1 Hill's Ch. Rep. 4; Clerk et ux. v. Saxon, 1 Hill. 73. Fripp v. Talbird, 1 Hill, 143; Magwood et al. v. Patterson et al. 1 Hill, 231; Spann et ux. v. Jennings et al. 1 Hill, 325; Spann v. Stewart et al. 1 Hill, 332; Capeheart et al. v. Huey, 1 Hill, 410; Riddlehoover et al. v. Kinnard, 1 Hill, 382; Boozer v. Wallace et al. 1 Hill, 395; Burgess v. Harpe, 1 Hill, 404.

III.—*Relating to Marriage Portions.*

Hart v. Hart, 3 Eq. Rep. 592; M'Donald v. Crockett, 2 M'Cord's Ch. Rep. 131.

IV.—*Relating to Marriage Settlements generally.*

Boatwright v. Wingate, 2 Tread. Const. Rep. 521; Bethune v. Beresford, 1 Eq. Rep. 174; Harlston v. Lynch et al. 1 Eq. Rep. 244; Lloyd et al. v. Inglis, 1 Eq. Rep. 333; Grimke v. Grimke, 1 Eq. Rep. 366; Cape et ux. v. Adams et al. 1 Eq. Rep. 567; Postell v. Skirving, 1 Eq. Rep. 158; Wilson v. Wilson, 1 Eq. Rep. 219; Smellie v. Smellie, 2 Eq. Rep. 66; Carnes et al. v. Smith, 2 Eq. Rep. 300; Pearce v. Spierin, 2 Eq. Rep. 460; Tunno v. Trezevant, 3 Eq. Rep. 269; Abrams v. Whitmore, 4 Eq. Rep. 255; Barrett v. Barrett, 4 Eq. Rep. 447; Latimer et al. v. Elgin et ux. 4 Eq. Rep. 26; Taylor v. Heriot, 4 Eq. Rep. 227; Threewits v. Threewits, 4 Eq. Rep. 560; Lyles v. Lyles, Harp. Ch. Rep. 288; Smith v. Maxwell, 1 Hill, 103.

V.—*Relating to the registering and recording of Marriage Settlements.*

See the Recording Acts of 1698, 1785, 1792, 1832. See Stockton v. Martin, 2 Bay, 471; Alston v. Hervey et ux. 2 Treadw. Con. Rep. 601; Cheney v. Lubbock, 1 Nott & M'Cord, 444; Tart v. Crawford, 1 M'Cord, 265, as to notice; Givens v. Branford, 2 M'Cord, 132; Lennox et ux v. Gibbes, 1 Eq. Rep. 305; Ward, Adm'r, v. Wilson et al. 1 Eq. Rep. 401; Garner v. Garner, 1 Eq. Rep. 437; Tatnell et ux v. Fenwick, 1 Eq. Rep. 143; Anonymous, 1 Eq. Rep. 113; Postell v. Executors of Skirving, 1 Eq. Rep. 158; Bethune et al v. same, 1 Eq. Rep. 174; Wilson v. Wilson, 1 Eq. Rep. 219; Experte Ann Beresford, 1 Eq. Rep. 263; Cape et ux v. Adams et al, 1 Eq. Rep. 567; Horry v. Horry, 2 Eq. Rep. 127; Forrest v. Warrington, 2 Eq. Rep. 254; Taylor v. Heriot, 4 Eq. Rep. 227; Ballard et ux v. Taylor, as to the Amending Act of 1792, 4 Eq. Rep. 550; Hanion v. M'Call, Harp. Ch. Re. 170; M'Meekin v. Edmonds et al, 1 Hill's Ch. Rep. 295; Riddlehoover v. Kennard, 1 Hill, 382; Boozer v. Wallace, 1 Hill, 395; Burgess v. Heape, 1 Hill, 401; Price v. White et al. Car. Law Jour. 297, and the proposed Act, Ib. 352.

VI.—*Relating to the Wife's separate Estate.*

Ewing et al v. Smith et al, 3 Eq. Rep. 417.

VII.—*Settlements decreed in consideration of property accruing by or in right of the Wife.*

Anonymous, 1 Eq. Rep. 113; Tatnell v. Fenwick, 1 Eq. Rep. 143; Postell v. Skirving, 1 Eq. Rep. 158; Greenland v. Brown, 1 Eq. Rep. 198; Wilson v.

Wilson, 1 Eq. Rep. 219; *Ex parte Beresford*, 1 Eq. Rep. 268, *Cape et ux v. Adams et al*, 1 Eq. Rep. 568; *Rivers v. Rivers*, 3 Eq. Rep. 190; *Taylor et ux v. Mayrant et al*, 4 Eq. Rep. 505; *Durr v. Bowyer*, 2 M' Cord's Ch. Rep. 368.

VIII.—*Relating to the personal property of the Wife, reduced or not reduced into possession by the Husband.*

Peyer v. Jarvey, 2 Eq. Rep. 226; *Harleston v. Lynch*, 1 Eq. Rep. 244; *Byrne v. Stewart*, 3 Eq. Rep. 135; *Elms v. Hughes*, 3 Eq. Rep. 160; *Bunch v. Hurst*, 3 Eq. Rep. 289, as to Act of 1791; *Sturgineger v. Hannah*, 2 Nott & M'Cord, 147; *Hood v. Archer*, 2 Nott & M'Cord, 149; *Sausey v. Gardner*, 1 Hill's Com. Law Rep. for 1833, 191.

IX.—*Relating to Ill Usage and Alimony.*

Jelineau v. Jelineau, 2 Eq. Rep. 45; *Anonymous*, 2 Eq. Rep. 199; *Anonymous*, 1 Eq. Rep. 113; *Greenland v. Brown*, 1 Eq. Rep. 196; *Prather v. Prather*, 4 Eq. Rep. 33; *Devall v. Devall*, 4 Eq. Rep. 79; *Anonymous*, 4 Eq. Rep. 94; *Taylor v. Taylor*, 4 Eq. Rep. 167; *Williams v. Williams*, 4 Eq. Rep. 183; *Barrett v. Barrett*, 4 Eq. Rep. 489; *Threewits v. Threewits*, 4 Eq. Rep. 560; *Gary et ux. v. Executors of James*, 4 Eq. Rep. 185; *Boyd v. Boyd*, Harp. Ch. Rep. 144; *Anonymous*, 1 Hill's Com. Law Rep. 251; see some instructive cases relating to ill usage, alimony, &c. decided by Sir Wm. Scott, in Haggard's Consistory Reports.

X.—*Relating to Dower.*

See Act of 1698, to prevent deceits, section 3; Statutes of 13 Ed. 1, ch. 34, 40, 1285; 27 Hen. 8, ch. 10, section 6, 7, 8, 9, 1635; Act of 1731 for remission of quit rents, section 29; Act concerning wills and testaments, 1734, section 4; Act for the more frequent holding Courts, &c. 1767, section 7; Act for reviving and amending, &c. 1778, section 10; County Court Act of 1785, section 46; Act concerning admeasurement of Dower, 1786; Hotchpot Act of 1824, p. 24 of pamphlet laws.

Cases.—*Mongin et ux. v. Baker et al*, 1 Bay, 71; *Bogie v. Rutledge*, 1 Bay, 310; *Lesesne v. Russel et al*, 1 Bay, 452; *Scott v. Scott*, 1 Bay, 495; *Wells v. Martin*, 2 Bay, 20; *Hawkins v. Hall et al*, 2 Bay, 449; *Righton v. Righton*, 1 Mill. 130; *Smith v. Paysinger*, 2 Mill. 50; *Administrators of Russell v. Gee*, 2 Mill. 254; *Ramsay v. Dozier*, 1 Tread. 112; *Picket et ux. v. Peay*, 2 Tread. 746; *Hayward v. Cuthbert*, 2 Tread. 626; *Mitchell v. Pogas*, 1 Nott & M'Cord, 86; *Picket v. Peay*, 1 Nott & M'Cord, 76; *Gough v. Walker*, 1 Nott & M'Cord, 469; *Heyward v. Heyward*, 1 M'Cord, 386; *Heyward v. Cuthbert*, 2 M'Cord, 386; *Crafts v. Crafts*, 2 M'Cord, 54; *Brown v. Duncan*, 4 M'Cord, 346; *Vance v. Bicknall*, 1 Bail. 140; *Wright v. Jennings*, 1 Bail. 277; *Bell v. Nealy*, 1 Bail. 312; *Scanian v. Tunner*, 1 Bail, 421; *Forrest v. Trammell*, 1 Bail. 77; *Means v. Vance*, 1 Bail. 39; *M'Cully v. Smith*, 2 Bail. 103; *Plantt v. Payne*, 2 Bail. 310; *M'Creary v. Cloud*, 2 Bail. 348; *Stoppelen v. Shulte*, 1 Hill's Com. Law Rep. 200; *Miller v. Cape*, 1 Eq. Rep. 110; *Clifford v. Clifford*, 1 Eq. Rep. 115; *Administrators of Wilson v. Wilson et al*, 1 Eq. Rep. 401; *Loockock v. Clarkson et al*, 1 Eq. Rep. 471; *Stewart v. Carson*, 1 Eq. Rep. 500; *Gist et al. v. Cattel*, 2 Eq. Rep. 54; *executors of Richardson v. Wyatt*, 2 Eq. Rep. 471; *Boyle v. Rowand*, 3 Eq. Rep. 555; *Douglas et al. v. Clarke et al*, 4 Eq. Rep. 443; *Quarles et al. v. Garrett et al*, 4 Eq. Rep. 145; *Snelgrove et al v. Snelgrove et al*.

4 Eq. Rep. 274; *Milledge v. Lamar*, 4 Eq. Rep. 637; *Frazer v. Center*, 1 M'Cord's Ch. Rep. 279; *Westbrook v. Harbeson*, 2 M'Cord's Ch. Rep. 117; *Mayo v. Feaster*, 2 M'Cord's Ch. Rep. 141; *Hall v. Hall*, 2 M'Cord's Ch. Rep. 274; *Stock v. Parker*, 2 M'Cord's Ch. Rep. 382.

XI.—Concerning *Feme Coverts*.

See Limitation Act of 1712, section 16, p. 537, and 2 Bail. Rep. 349; Act of Assembly 1731, section 29, Jury Act, and *Gough v. Walker*, 1 Nott & M'Cord, 469; Act of 1734, for making more effectual wills and testaments, section 5 and notes thereto; Act concerning the granting of probates, &c. 1789, section 2; Act for reviving and amending several Acts, &c. 1778, section 10; Limitation for suing for seamen's wages, section 18 of 4 Ann, ch. 16, 1705; Limitation as to bringing Ejectment, see Act of Assembly concerning Ejectment, 1744, section 1; See County Court Act of 1785, section 46, as to relinquishment of Dower. Stat. 25, Ed. 3, Stat. 2, and *Boyce v. Owens*, 1 Hill's Com. Law Rep. 8.

Cases.—*Davis v. Hall*, 1 Nott & M'Cord, 294, as to alien succession, also, 6 Ann, ch. 18, section 1, 1707, as to claims of husbands in right of their wives living; Act of limitations, 1712, section 16; see *Rose v. Dantell*, 1 Nott & M'Cord, 33; *Hood v. Archer*, 1 M'Cord, 225, 477; the *State v. Collins*, 1 M'Cord, 356; *Brown v. Killingsworth*, 4 M'Cord, 429; *Powell v. Brown*, 1 Bail. 100; *Freer v. Walker*, 1 Bail. 184; *M'Cullough v. Boyce*, 1 Bail. 521; *Jackson v. Heath*, 1 Bail. 355; *Terry v. Belcher*, 1 Bail. 568; *Clark et ux. v. Saxon*, 1 Hill's Ch. Rep. 73; *Hillegas et ux. v. Hartley*, 1 Hill's Ch. Rep. 110; *Forrest v. Warrington*, 2 Eq. Rep. 254, 262; as to choses in action; *Knox v. Pickett*, 4 Eq. Rep. 92; *Taylor v. Herriot*, 4 Eq. Rep. 227; *Threewits v. Threewits*, 4 Eq. Rep. 560; *Buckner v. Smith et al.* 4 Eq. Rep. 371; *Wilson v. Cheshire*, 1 M'Cord's Ch. Rep. 233; *Frazier v. Hall et al.* Ib. 275; *Thomas et ux. v. Shepherd*, 2 M'Cord's Ch. Rep. 40; *Hall v. Hall*, Ib. 274; *Durr v. Bowyer*, Ib. 368; acknowledgements of *feme coverts* to be recorded, *Gough v. Walker*, 1 Nott & M'Cord, 469; as to settlements and alimony, see ante.

XII.—As to *Feme Sole Traders*.

See Stat. 1, Jas. 1, ch. 11; see Act of 1823, and Hotchpot Act of 17th December, 1824, p. 23 of the pamphlet laws; see also, Act of 1712, p. 588 of this volume.

Cases.—*Wallace v. Rippon et ux.* 2 Bay, 112; *Cusack et ux. v. White*, 2 Mill. 282; *M'Dowall et ux. v. Wood et ux.* 2 Nott & M'Cord, 242; *City Council v. Van Roven et ux.* 2 M'Cord, 465; *Bean v. Morgan*, 4 M'Cord, 148; *Starr et al. v. Taylor et al.* 4 M'Cord, 413; *Brown v. Killingsworth*, 4 M'Cord, 429; *Dodd v. Lewis*, 2 Bail. 88; *Wright v. Wright*, 2 Eq. Rep. 244; In connection with absence from the State, *Boyce v. Owens*, 1 Hill's Com. Law Rep. for 1833, p. 8; *M'Daniel v. Cornwell*, Ib. 428; *Miller v. Tollison*, 2 Harp. Eq. Cases, 145.

A bill against them that counterfeit letters, or privy tokens, to receive money or goods in other men's names. 33 Hen. 8, ch. 1, 1541. p. 476.

See 4 Black. Com. 157, and Book 2, p. 455, &c.

An Act for the punishment of such as shall procure or commit Perjury. 5 El. ch. 9, 1562, p. 486.

See Act of 23 Hen. 8, ch. 3, 1531; 43 El. ch. 5, 1601; 29 Ch. 2, ch. 3, 1672; 1 Ann, Stat. 2, ch. 9, 1701; Act concerning juries, 20th August, 1731, section

28; Act 5th March, 1736-7; Insolvent Debtors Act, section 15, 7th April, 1759; Act for the reduction of interest, section 2, January 2, 1777; County Court Act, 17th March, 1785, section 39; Tobacco Act, March 13, 1789, section 13; Act 9 Ann. ch. 14, 1710, section 5; Act of 19th December, 1833, on perjury.

Cases.—The State v. Hayward, 1 Nott & M'Cord, 549; the State v. Hattaway, 2 Nott & M'Cord, 118; the State v. Holding, 1 M'Cord, 379; the State v. M'Croskey, 3 M'Cord, 308; the State v. Stephenson, 4 M'Cord, 165; the State v. Cochran, 1 Bail. 50; as to the 12th section of this Act, touching the compensation to witnesses, see Collins v. Godefroy, Barn. and Adolp. 950; the State v. Smith & Cameron, 2 Bay, 62.

Against forgers of false Deeds and Writings. 5 El. ch. 14, 1562. p. 489.

See Act of 5th March, 1736-7, for putting in force divers Acts of Parliament against forgery; also, section 5 of the Hawkers and Pedlars Act, 14th March, 1737-8; also, section 10 of the Act of 29th May, 1744, for the better governing of white servants; also, the Act against counterfeiting certificates, 9th April, 1776; also, section 31 of the Act concerning Tobacco, March 13, 1789; also, Act against forgery, 19th December, 1801.

See the *cases*—the State v. Washington, 1 Bay, 147; the State v. Jones, 1 Bay, 205; the State v. Fuller, 1 Bay, 243; the State v. Gutteridge, 1 Bay, 282; the State v. Hopkins, 1 Bay, 365; the State v. Holly, 2 Bay, 262; the State v. Waters, 2 Tread. Const. Rep. 669; the State v. Foster, 3 M'Cord, 442; the State v. Tutt, 2 Bail. 44; the State v. Fields, 2 Bail. 554; the State v. Hooper, 2 Bail. 37; the State v. Anderson, 2 Bail. 574.

An Act against fraudulent Deeds, Conveyances, Alienations, &c. 13 Eliz. ch. 5, 1570. p. 496.

On frauds, fraudulent deeds and conveyances, see the Statutes, 3 Hen. 7, ch. 4, 1486; the Stat. 27 El. ch. 4, 1585; 29 Ch. 2 ch. 3, 1677; 3 Wm. and Mary, ch. 14, 1691, and the following cases and references.

Holman v. Greenwood, 1 Bay, 173, not authority; see Hudnall v. Teasdale, 4 M'Cord, 294; Hough v. Evans, as to *caveat emptor*, 4 M'Cord, 160; Munro v. Gardner, 1 Mills, 328, and Kinloch v. Palmer, *ib.* 224, that fraud must not be inferred but proved; Assignees of Tutt v. Colvert, 2 do. 27, as to fraudulent conveyances; Kennedy v. Ross, 2 do. 125, same point; 2 do. 222, fraud; Hobson v. Humphreys, 2 do. 371, fraud; Ross v. Daniel, 1 Nott & M'Cord, 38, deed of a *feme covert* void; Kidd v. Mitchell, *ib.* 339, deed void as to creditors, good as to the parties; Gordon v. Goodwin, 2 Nott & M'Cord, 70, concealment; Kerkely v. Blakeney, 2 Nott & M'Cord, 544; Swansey v. Hunt, *ib.* 211; Hadnall v. Teasdale, 1 M'Cord, 227; Smith v. Littlejohn, 2 M'Cord, 362; Foster v. Brown, 1 Bail. 221, fraud; Madden v. Day, *ib.* 337, concealment; Reeves v. Harris, *ib.* 563, fraud; Terry v. Belcher, *ib.* 568, fraud; Howard v. Williams, *ib.* 575, trifling indebtedness will not avoid a deed; Chappell v. Brown, *ib.* 528, Executor cannot avoid a deed of his testator as fraudulent against creditors; Tompkins v. Tompkins, *ib.* 92, fraud; Smith v. Henry, 2 Bail. 118, fraud and fraudulent conveyance; M'Elwee v. Sutton, *ib.* 128, as to the indebtedness that will vitiate a voluntary deed, whereon see Howard v. McWilliams, 1 Bail. 575; Cordery v. Zealy, 2 Bail. 205, voluntary conveyance; Proctor v. M'Call, 2 Bail. 298, fraud; Rogers v. Madden, *ib.* 321, fraudulent conveyance; Lowry v. Pirson, *ib.* 324, fraudulent conveyance; Jones v. Cole, *ib.* 330, conveyance by

feme sole, before marriage; *State v. Fife*, ib. 337, fraudulent confession of judgement; *Edwards v. Ford*, ib. 461, who may avoid a fraudulent deed; *Frazer v. Harvey*, ib. 269, fraud by misrepresentation; *Thompson v. Linoir*, ib. 131, fraud by an insolvent; *Huggins v. Brewer*, ib. 25, jurisdiction of the Court of Common Pleas, as to State grants; *Cordery v. Zealy*, ib. 205, registry not notice whereof possession is retained; *Headman v. O'Neale*, ib. 190, effect of fraud by an insolvent on his surety; *Odell v. Cook*, ib. 59, and *Miller v. Read*, ib. 345, usurious fraud; *McMeekins v. Edwards et ux.* 1 Hill's Ch. Rep. 203, fraud of a third person may vitiate the conveyance; *Brown et al v. McDonald*, ib. 303, indebtedness; *Brock v. Bowman*, ib. 338, parties; *Eigilberger et al v. Kibler*, ib. 119, fraud and fraudulent conveyance; *Fripp v. Talbird*, 143, marriage settlement; *Loveland et al. v. Mansell et al.* ib. 131, fraud; *Brown et al v. McDonald*, ib. 305, fraudulent conveyance; *Smith v. Henry*, 1 Hill's cases at law, 1833, p. 16, fraud; *Anderson v. Belcher*, ib. 246, fraudulent conveyance; *Posey v. Underwood*, ib. 282, fraudulent judgement; *Gregg v. Bigham*, ib. 299, fraudulent judgement; *Thomas et al v. Jeter & Abney*, ib. 380, fraudulent conveyance; cites *Lowry v. Pirson*, 2 Bail. 234; *Poole v. Mitchell*, ib. 404, permitting property to remain in debtor's possession after sale; *sureties of Bottifeur v. Weyman et al*, 1 M'Cord's Ch. Rep. 156, fraud; *M'Cants v. Bee*, ib. 390, circumstances hardly amounting to fraud; *Miller v. Tollison*, 2 Harp. Eq. cases, 145, fraud in *feme sole* trader; *Haman v. M'Call*, ib. 170, voluntary conveyance; *Adams v. Holcombe*, ib. 202, voluntary conveyance; *Fary's v. Fary's*, fraud in sheriff's sale, ib. 261; *Isley v. Niswanger*, ib. 295, indebtedness; *DeBardeleben v. Beekman et al.* 1 Eq. Rep. 346, possession and recording should accompany sale; *Watlington v. Howley et al.* ib. 167, fraudulent judgement; *Fitzpatrick et al. v. O'Brian Smith*, ib. 345, evidence where fraud is charged; *Denton v. M'Kenzie*, ib. 300, fraud may be presumed in Equity though not at law; *Somers v. Smith*, 2 Eq. Rep. 214; *Tunno v. Trezevant*, ib. 270, indebtedness not to be regarded too strictly; *Anonymous*, ib. 304, fraud decided on circumstances; *Jacks v. Tunno*, 3 Eq. Rep. 1, voluntary gift; *Chonler v. Smith*, ib. 12, fraud not to be imputed slightly or after long time; *Croft v. Townsend's Administrators*, ib. 223, fraudulent conveyance; Statute of limitations when it runs against fraud, ib.; *Executors of Blake v. Law*, ib. 266, fraudulent possession; *Lowe v. Executors of Blake*, 3 Eq. Rep. 270, fraud vitiates a judgement obtained at law; *Bunch v. Hurst*, ib. 273, as to imbecility of intellect and inadequacy of price; *Crawford v. Crawford*, 4 Eq. Rep. 176, a fraudulent judgement; *Barton et al. v. Ruston et al.* ib. 373, fraud not to be lightly presumed; *Rowland et al. v. Sullivan et al.* ib. 518, allegation of undue influence and imbecility; *Butler v. Haskell*, ib. 687, gross inadequacy of price amounts to presumption of fraud, if coupled with weakness of intellect, ib. 687, 690; see *Roberts's book on fraudulent conveyances*.

An Act against Conjuraton, Witchcraft, and dealing with evil and wicked spirits. 1 Jas. 1, ch. 12, 1603. p. 508.

The former Acts of Parliament relating to this subject, are 33 Hen. 8, ch. 8; 1 Edw. 6, ch. 12; 5 El. ch. 16. They are repealed by 9 Geo. 2, ch. 5, 1736. The following references bear upon this curious subject. Corp. Jur. Civil. Cod. 9, Tit. 18; 3 Co. Inst. 45, 128; Cro. ch. 141, 182; Hale's Pl. Cr. 6, 8. At common law, witchcraft was punished as heresy by the writ *de hæret. comburendo*; and by their commission Justices of Peace might enquire *de Veneficio. Icantationibus, Fortilegiis, Arte Magica*.

By 9 Geo. 2, ch. 5, the Stat. 1 Jac. 1, ch. 12, 1603, is repealed, except so much as repeals the Stat. 5 Eliz. ch. 16, and it inflicts the punishment of the pillory upon persons who pretend to witchcraft, fortune-telling, &c. But the Act of 9 Geo. 2, ch. 5, not being made in force in the Colonies and Plantations, leaves the law on the subject now, as it was when 1 Jac. 1, ch. 12 was adopted by our Act of Assembly of December 12, 1712. A Court of Law may declare void an Act of Assembly as being unconstitutional, because the Constitution is the paramount law of the land, and the Judges are sworn to the observance of it, but who can tell the circumstances, or prescribe the limitation of time, when a law shall become obsolete, which the Legislature has not thought fit to repeal? There are already too many temptations presented to our Courts to usurp legislative authority, and enact judge-made law, which by the convenient courtesy of the Courts and the Bar, is comprehended under the title of common law; Blacks. Comm. book 1, p. 71-73. Some periodical arrangement for correcting this almost unavoidable tendency, is needed in the present day. The decision of the Court of King's Bench in England on Abraham Thornton's case, 1814, is conclusive authority against the power of a Court to declare a Law obsolete, which the Legislature suffers to remain.

In the 33 Hen. 8, ch. 8, A. D. 1541, an Act was passed, making it felony to practice or cause, to be practiced conjuration, witchcraft, enchantment, or any sorcery, to get money, or to consume any person in his body, members or goods, or to provoke any person to unlawful love, or for the despight of Christ or lucre of money to pull down any cross, or to declare where goods stolen, be.

This Statute of Hen. 8, was among others creating new felonies, repealed indirectly by 1 Ed. 6, ch. 12, A. D. 1547, and by 1 Mary, Stat. 1, ch. 1. A Statute against witchcraft was afterwards enacted by 5 El. ch. 16, A. D. 1563, which was partially repealed, together with 1 Jas. 1, ch. 12, by 9 Geo. 2, ch. 5, 1736.

It may create some surprise, that our ancestors in 1712, gave countenance to the reality of witchcraft and the dealing with evil spirits: but the question has difficulties attending it, which press upon the minds of many persons even in our day.

There are two modes of estimating the collection of ancient tracts called the Old Testament. *One*, that they are throughout the dictate of divine inspiration, and as such to be considered and implicitly obeyed. *Another*, that they are the compositions of historical writers at or about the time of the events, written in the style and manner, and tinctured with the common opinions and prejudices of the age and country when and where the authors lived. This last opinion is deduced from and founded on the universal belief of the Jewish and Christian church till the 4th century of the Christian era, that the treatises in question were compiled, composed, or collected, and published by the prophet Ezra or Esdras, some time subsequent to the return of the Israelites from the Babylonish captivity. To the Jews and early Christians these were inspired books, because Ezra or Esdras was an inspired writer. Others argue, that if Ezra made this compilation, the respective authors of the books ought reasonably to be considered as having written under the usual influence of opinions, well or ill founded, prevalent among the people they addressed, common in their day, and therefore naturally entertained by themselves.

The *first* opinion, is adopted by all the advocates of plenary inspiration.

The *second* opinion, by all those who are disinclined to admit miraculous interposition, and supernatural dictation, without absolute necessity—by men who

say, "these are historical writings contemporary or traditional; and to be judged of according to the usual rules of judging historical narrations."

Upon these two conflicting theories of explanation, I shall leave the reader to decide for himself, my own opinion being of little consequence: the decided cases show that the law has adopted the first opinion.

Comyns, in his Digest, p. 367 of the original edition, has given the authorities for the slanderous and *actionable* character of the following expressions.

He is a witch, and did bewitch my child: though he do not shew any damage consequent thereon.

He is a witch and bewitched me.

He is a witch and bewitched my wife's milk.

Or my mother's drink.

Or my cattle, mare, &c.

He is a strong witch and bewitched me and my aunt, and therefore I will not marry him.

She is a witch and was convicted at the assizes.

The Devil appears to thee and thou conferrest with him, and whatever thou askest, he gives thee.

She sacrificed her child to the Devil with intent to bewitch A.

Thou art a witch and shall suffer for it.

Thou art a witch and deservest to be hanged.

She is a witch, and if she cross me, I will hang her for it.

The ancient mode of ascertaining in England whether a woman was a witch, among the populace, was to tie her neck and heels and throw her into a pond; if she swam, the proof was undeniable: if she sank, she was acquitted, but then she was probably drowned.

Quere, in the days of Godbold, Rolle, Croke, &c. suppose a young woman was addressed thus in respect of one of her admirers—thou hast bewitched that young man, he can do nothing but thy bidding—would it have been actionable, seriously spoken?

Attempts have been made to quibble away the scripture reality of witchcraft, as if the crime denounced was not a reality, but a pretence and an imposture only. Perhaps the persons who so argue, have not carefully perused and considered the following texts in this connection:

1 Sam. xxxviii, 7. As to the Witch of Endor. 1 Chron. x, 13.

22 Exod. 18. Thou shalt not suffer a witch to live.

18 Deut. 10. There shall not be a witch among you.

2 Chron. xxxiii, 6. Manasseh used witchcraft and enchantments.

5 Galat. 20. The works of the flesh are idolatry, witchcraft, &c.

The numerous passages relating to evil spirits, and unclean spirits, both in the old and new Testament.

20 Levit. 27. A man or woman with a familiar spirit to be condemned to death.

29 Isaiah 4. Thy voice is as of one who hath a familiar spirit.

To the same purpose, 19 Lev. 31; 20 Lev. 6; 18 Deut. 11; 1 Sam. xxviii, 3, 9; 2 Kings, xxi, 6; 2 Kings, xxiii, 24; 8 Isaiah, 19; 19 Isaiah, 3.

In all these passages the crime of dealing with evil and familiar spirits, and the real existence of such beings, is plainly, unequivocally, positively asserted; like any other real fact.

In no part of scripture are witches or dealers with evil and familiar spirits, considered as mere jugglers and impostors. They are not spoken of or pronounced as criminal because they were cheats and pretenders, but because they

really had an alliance and intercourse with evil spirits. The shifts of modern expounders to get rid of the plain meaning of the text, imply a charge of careless omission or deceptive ambiguity in the scripture writers.

It is difficult for an advocate of the plenary inspiration of the scriptures, to deny, in the character of a real and consistent Christian, the reality of the offence of witchcraft. I would not press into the service of this argument, Wierius or Delrio, or Mr. G. Sinclair's 'Satan's Invisible World discovered,' or the ignorant piety of Mr. Baxter in his small treatise on Witchcraft—nor the condemnation and burning of William Cole and Allinson Dick at Kirkaldy in 1636, for witchcraft, (Statistics of Scotland, vol. 18,)—nor the very curious and authentic account of the confession of Amy Simpson and several other witches, who were upon their own confession burnt alive in Scotland about the year 1586, as related in the memoirs of Sir James Melville, fol. p. 194, London, A. D. 1683—nor the precious specimen of credulous fanaticism of Cotton Mather, in his Life of Sir W. Phips, 1 Magnolia, 185-192—nor the more detailed account of the New England witchcraft-murders in 1691 and 1692, as given by Neale in his History of the Puritans, vol. 1, p. 124—nor shall I rely on the very ingenious treatise on witchcraft by Mr. Glanville, a book not easy to be replied to,—but I may fairly cite as authorities for the existence of witchcraft, the examination and execution of thirteen witches, deliberately condemned on evidence in open court by Sir Matthew Hale—I may cite the acknowledgements of Sir W. Blackstone, of Mr. Addison, of Dr. Johnson—and though last not least, the very learned charge of our Chief Justice Trott of South Carolina, still extant in manuscript, though at present somewhere mislaid in Charleston; undoubtedly the most learned and elaborate defence of the existence of witchcraft as a crime, that I have had an opportunity of perusing. Whatever therefore may be the opinions of the educated and enlightened part of the community in the present day, very many persons of good sense, as well as christian piety, have been, and many still remain, firm believers in the reality and occasional existence of this presumed crime.

I have received on this subject a letter from a friend, of which the following extract will prove that the notions of real witchcraft, its influence and operations, are hardly yet eradicated among us.

"WINNSBORO', APRIL 26, 1837.

"Dear Sir—In reply to yours of the 22nd, I answer that I was never concerned in a case of witchcraft. Some years ago, Stephen D. Miller, Esq. defended seven or eight persons who were indicted at Lancaster for assault, battery and false imprisonment. The defence was, that an old woman, the prosecutrix, residing in Chesterfield, had maltreated, by diabolical arts, a poor girl residing in Lancaster; and that the persons indicted, acting from the best advice procurable, went to the old woman, gently laid their hands on her, and brought her into Lancaster, to touch the abused girl, and say over her 'God bless you'! That the significant words had been pronounced with the proper ceremony, and the girl instantly recovered. Judge David Johnson presided, and I suppose with a view to look somewhat into the grounds of defence as a matter of curiosity, permitted the girl to be sworn. She testified that being fatigued one evening at her labors, she lay down to rest; Barbara Powers, the prosecutrix, came in and sat upon her, and choked her with great violence. After this, Barbara raised her up, converted her into a horse, rode her to Lancaster village, went through the keyhole into several shops, brought out goods of great value, loaded her with them, and rode her into Chesterfield with her booty. Barbara subsequently rode her to Cheraw, and proceeding in like manner, obtained bags of goods, and rode her back to her residence. With the severity of her almost incessant hardships in the service of the witch, her health and strength greatly declined. Here the Judge interposed, and cut off all further testimony. This happened about 1813 or 1814.

"In the year 1792, witches abounded in Fairfield. Many a poor girl was thought to be sadly afflicted by these miscreants, and not a few young persons of the other sex. In fact, to so great a length did they carry their terrible enmities to a numerous list of individuals, that to relieve the sufferers, it was deemed necessary to give the witches a trial, and if found guilty of the charges alleged against them, to punish them with signal severity. In that year, a court composed of witch-doctors, was held at the house of a Mr. Thomas Hill, five miles below Winnsboro'. Four persons were tried, found guilty, and punished by stripes and burning their feet at a bark fire, so that the soles came off. I can barely remember to have seen one of the sisterhood in the hands of the officer of this court, a poor old German woman of 70 years of age, going to the place of trial; and afterwards to have seen the scars of the cow-skin on her arms and shoulders. The sufferers brought suits in the county court of Fairfield, and the defence was fully gone into in each case. The plaintiffs recovered nominal damages. From that day to this, we have not had occasion to complain of the dealings of witch or wizzard among any of our people. I am in possession of the bulk of the evidence delivered on the trial of these poor old people, and if you desire it can detail it with a good deal of exactness. Judge Johnson will no doubt remember the case of Barbara Powers. Yours, &c.

"P. EDW. PEARSON."

"Dr. Thomas Cooper."

The last cases of punishment for witchcraft that I know of in Great Britain, are those recorded in Sir Walter Scott's *Demonology*, p. 286—288.

Act to give Costs to Defendant where Plaintiff is nonsuited or verdict found against him. 4 Jas. 1, ch. 3, 1606. p. 510.

See English Statute on Writs of Error, 19 H. 7, ch. 20; 4 Ann, ch. 16, for amendment of the law, sect. 23; 25 H. 8, ch. 15, and 4 Jas. 1, ch. 3, on nonsuits; 8 El. ch. 2, on latitat, sect. 2; 13 Ch. 2, st. 2, ch. 2; 2 Will. & M. ch. 5, sect. 5, bearing upon the subject of costs.

See also, the Negro Act of 1740, sect. 21; Act for the better securing the payment of debts, 1744; Act for the trial of small causes, 1747, sect. 4; Insolvent Debtors Act, 1759, sect. 3—20; Act for establishing courts, 1769, sect. 29; County Court Act, 1785, sect. 16, 40, 41, 43; County Court Act of 1787, sec. 6; Act of 1788, sect. 8; County Court Act of 1791, as to treble costs against commissioners; Act of 1809, to reduce costs of attornies, &c.; Act of 1829, for the regulation of magistrates and constables.

Cases relating to Costs, are: *Frink & Co. v. Layton*, 2 Bay, 166; *O'Driscoll v. M'Cants*, 2 Bay, 323; *Executors of Vanderhorst v. Whitner*, 2 Bay, 399; *Penning v. Porter*, Mill, 769; *Cambridge Association v. Nichols*, 1 Tread. C. Rep. 121; *Moses v. Boney*, 1 Nott & M'Cord, 769; *Hawkins v. Hatton*, 1 Nott & M'Cord, 319; *O'Driscoll v. M'Burney*, 1 Nott & M'Cord, 58; *M'Culloch v. M'Culloch*, 1 Nott & M'Cord, 361; *Trapp v. M'Kenzie*, 1 Nott & M'Cord, 571; *Dinkins v. DeBruhl*, 2 N. & M'Cord, 85. See the following cases in 1 M'Cord: *Grimes v. Gower*, 137; *Gibson v. Brown*, 162; *Richardson v. Presnall*, 192; *Levy v. Roberts*, 395; *State v. Sheriff of Charleston*, 419; *Clifton v. Philips*, 469; *Dismakes v. Dismakes*, 552; — and the following in 2 M'Cord: *Latta v. Surginer*, 430; *Furnan v. Harman*, 438; *Day & et v. Eastburn*, 455; — and the following in 3 M'Cord: *Elms & Co. v. Beers et al.* 1; *Corrie v. Fitz*, 25; *Barksdale v. Morrison*, 184; *Smith v. M'Masters*, 288; *State v. Becket*, 290; and in 4 M'Cord, *Benson v. Whitfield*, 149; *M'Clure v. Sutherland*, 158; *Hinchie v. Foster*, 253; *Boulware v. Pickett*, 275; *Hyams v. Black*, 508. — *Jamison*

v. Lindsay, 1 Bail. 79; Vance v. Becknall, 1 Bail. 140; Clerk v. Linster, 1 Bail. 187; Morris v. Lapene, 1 Bail. 191; Moore v. Foster, 1 Bail. 370; State v. Kenny, 1 Bail. 375; Bomar v. Trail et al. 1 Bail. 533; Surzenegger v. Marsh, 1 Bail. 592; Hucheson v. Bates, 1 Bail. 111; Westmoreland v. Tippens, 1 Bail. 514; Smith v. Anderson, 1 Bail. 123. *Incompetence on account of liability to costs*: Pickett v. Cloud, 1 Bail. 362, and Cheer v. Keckelely, 1 Bail. 479; Bourdeaux v. Cave, 2 Bail. 6; Meyler v. Meyler, 2 Bail. 53; Boyce v. Hancock, 2 Bail. 53; Nance v. Palmer, 2 Bail. 88; Rice v. Craven et al. 2 Bail. 117; Taylor v. M'Mahan, 2 Bail. 131; Howard v. Stent. 2 Bail. 272; Farley v. Farley, 319; Furman & Smith v. Peay, 2 Bail. 612; Horton v. Blair, 2 Bail. 545; Myers v. James, 2 Bail. 547; M'Collum v. Massey et al. 2 Bail. 606; M'Clure v. Sutton et al. 1 Hill's Ch. Rep. 34; Experte M'Cleland, 1 Hill's Ch. Rep. 412; Pinchback v. M'Craven, 1 Hill's Ch. Rep. 413; Lyles v. Lyle, 1 Hill's Ch. Rep. 92; Capehart et al. v. Administrators of Huey, 1 Hill's Ch. Rep. 411; Sims v. Anderson, 1 Hill's Com. Law Rep. for 1833, p. 394; Keckly v. Nolly, Ib. 398; Breithaupt v. Clark, Ib. 399, which overrules; Nicklin v. Morrow, 1 Tread. Const. Rep. 474; M'Millan v. Eldridge, Harper's Eq. Rep. for 1825, 260, 261.

An Act to prevent the destroying and murdering of Bastard Children. 21 Jas. 1, ch. 27, 1623. p. 513.

Repealed by Act of Assembly, 1695, last section.

An Act against deceitful, disorderly and excessive Gaming. 16 Chas. 2, ch. 6, 1664. p. 517.

See Act of Assembly 19th Feb. 1791; also, Act of Dec. 21, 1798, as to Columbia; also, Act of Dec. 18, 1802; Act of Dec. 19, 1816.

See cases:—Carsan v. Rambut, 2 Bay, 560; the State v. Reynolds, 2 Nott & M'Cord, 365; the State v. Rushing, Ibid. 560; the State v. Falkner, 2 M'Cord, 438; Archison v. Gee, 4 M'Cord, 211, deciding that 9 Ann, ch. 14, is in force; Owen v. Davis, 1 Bail. 315; Corley v. Berry, 1 Bail. 593; Administrators of Lee v. Ware, 1 Hill's cases at common law, 313; Allen v. Watson et al. 2 Hill's Ch. Rep. 319. See also, Shillito v. Theed, 7 Bingham, 405; the State v. Vaughan & Halcolm, 1 Bay, 279; the State v. Dallyon, 1 Bay, 357.

See *post*, the notes to 9 Ann, ch. 14, A. D. 1710.

An Act to prevent Arrests of Judgement, &c. 16 & 17 Chas. 2, ch. 8, 1664. p. 519.

See Act of Assembly 8th April, 1734, for the making more effectual wills and testaments, &c. &c.

An Act for avoiding unnecessary Suits and Delays. 17 Ch. 2, ch. 8, 1663. p. 520.

See Executors of Lynch v. Executors of Inglis. 1 Bay, 444.

An Act for the better settling of Intestates's Estates. 22 & 23 Chas. 2, ch. 10, A. D. 1670. p. 523.

This is the English Statute of Distributions; and was drawn up by Sir Walter Walker, a famous civilian of that day, as Lord Chief Justice Holt said, in Pitt's case, 1 Peere Williams, 27--29.

See Statutes, 25 Ed. 3, st. 2, 1350; 29 Chas. 2, ch. 3, sect. 25, 1677; 7 Ann, ch. 5, 1708. See also, our Acts of Assembly, 19th Feb. 1791, abolishing Primogeniture, and the supplement thereto, of 16 Dec. 1797. The Act concerning

probates of wills, 13th March, 1789; the Act relating to posthumous children, 15th Dec. 1808; and a further supplement to the Primogeniture Act, 20th Dec. 1826.

Cases.—Pitt's case, 1 Peere Williams, 27--29; Poaug v. Gadsden et al. 2 Bay, 293; Watson v. Hill, 1 M'Cord, 161; Lawson v. Perdriaux, 1 M'Cord, 456; Teague v. Dendy, 2 M'Cord's Ch. Rep. 211; Hall v. Hall, Ib. 299; Stent v. M'Cloud's Executor, Ib. 355; Trapp v. Billings, Ib. 403; Dupont et ux v. Pepper, 2 Harp. Rep. 5, 9, which doubts as to the adoption of 25 Ed. 3, stat. 2, and 7th Ann, ch. 5; Newman et ux v. Wilbourne et al. 1 Hill's Ch. Rep. 11; Talbird et ux v. Exors. of Bell, 1 Desaus. Eq. Rep. 592; Richardson v. Sinkler et al. 2 Eq. Rep. 127, Advancement and Hotch-pot. Kerwin v. Lowndes et al. 2 Eq. Rep. 210, Uncle and aunt of the half blood, preferred to cousins of the whole blood, under Act of 1791; Peyre & Peyre v. Jervy, 2 Eq. Rep. 221, 419, Right of the husband to the personal estate of the wife, notwithstanding Act of 1791: but see p. 226, 422; Byrne v. Admors. of Stewart, 3 Eq. Rep. 135; Bunch v. Hurst, 3 Eq. Rep. 297; see also, 3 Eq. Rep. 135, 160, 289; Wren et ux v. Carnes et al. 4 Eq. Rep. 405, right of the half blood—construction of Acts of 1791, 1797; Quarles et al. v. Garret et al. 4 Eq. Rep. 145; Snelgrove v. Snelgrove, 4 Eq. Rep. 274, purchaser under an ineffectual will; Dupont v. Pepper, 2 Harp. Eq. Rep. 6, as to the operation of alienage.

See the commentary in 1 Brev. dig. p. 425.

Advancement of children, see sect. 11 of Act of Feb. 19, 1791. Illegitimate children, Act of Dec. 19, 1795.

An Act for prevention of Frauds and Perjuries. 29 Chas. 2, ch. 5, 1672. p. 525. See 1 Jas. 2, ch. 17, 1685.

See 1 Burr. Rep. 418. See an elaborate exposition of the 4th section in 3 Henning & Munford, 158. See 25 Geo. 2, ch. 6, 1729. Act of Assembly, 13th March, 1789, as to Probates; Sect. 5 of this Act. In Argenbright v. Campbell—a devisee under a will may be a credible witness, because his claim under the will attested by him, is made void by 25 Geo. 2, ch. 6, expressly extended after March, 1755, to the Colonies where 29 Ch. 2, was of force.

Lessee of Tarrant v. Terry, 1 Bay, 240; the State v. Vaughan & Halcolm, 1 Bay, 281, swindling; Munro v. Gardner, 1 Mill, 328, and Kinloch v. Palmer, Ib. 224, fraud must be proved or unequivocally inferred; Tutt v. Colvert, 2 Mill, 27, deed to defraud creditors; Kennedy v. Ross, 2 Mill, 125, retention of possession; Watson v. Picket, 2 do. 222, misrepresentation; Hobson v. Humphries, 2 Mill, 371, misrepresentation; Davis v. Robertson, 1 Mill, 71, Auctioneer's entry binds vendor and vendee; Byrne v. Steuart, 3 Eq. Rep. 135; Holmes v. Simons, 3 Ib. 149; Pigot v. Gear, 1 Nott & M'Cord, 125; Lorent & Steinmetz v. the So. Ca. Ins. Co. 1 Nott & M'Cord, 508—from and after, inclusive or exclusive; Isaacs v. M'Grath & Jones, 1 Nott & M'Cord, 567; Douglas & Co. v. Spears, 2 Nott & M'Cord, 207; Aiken v. Duren, Ib. 370; Stephens et al. v. Winn, Ib. 372; Caldwell v. M'Kain, Ib. 555; Leland v. Creyon, 1 M'Cord's Rep. 100; Jackson v. Watts, Ib. 288; Executors of M'Bride v. Watts, Ib. 384; Mease v. Wagner, Ib. 395; Cosack v. Descoudres et al. Ib. 425; Madden v. M'Cray, Ib. 486; Massey v. Craine, Ib. 489, and Garret v. Steuart, Ib. 514, promises unsupported by a consideration; Atkinson v. Barfield, Ib. 575, same point; Boyce v. Owens, 2 M'Cord, 208, promise not in writing; Lecat v. Taval, 3 M'Cord, 158, parol testimony; Barnstine v. Eggart, 3 M'Cord, 162—See Vol. 2, p. 489, 514, 575,

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and appendix A to the present volume, in relation to promise to pay the debt of another; *Wood v. M'Gee*, 3 M'Cord, 421; *Meadows v. Meadows*, 3 M'Cord, 458, the clerk to an auctioneer not the mutual agent of the parties, though the auctioneer is,—see 2 M'Cord's Ch. Rep. 164; *Harrell v. Witherspoon*, 3 M'Cord, 486; *M'Kinnie v. Quilter*, 4 M'Cord, 408, *nude pact.* not in writing; *Caston v. Moss*, 1 Bail, 14, same point; *Roche v. Chaplin*, 1 Bail. 419, what is an original and what is a collateral undertaking; *M'Morris v. Herndon*, 2 Bail. 56, value received; *Rogers v. Collier*, 2 Bail. 581, what is an original and what a collateral undertaking; *Bates v. Moore*, 2 Bail. 614, exposition of section 4 of the statute; *Neufville v. Steuart*, 1 Hill's Ch. Re. 166, special performance; *Stoney et al. v. Shultz et al.* 1 Hill's Ch. Re. 500; *Aiken v. Cheesborough et al.* 1 Hill's Com. Law Cases, 172, what amounts to an undertaking for the debt of another; *Gordon v. Sims*, 2 M'Cord's Ch. Rep. 168, an auctioneer a mutual agent—Whether a commissioner is so?; *Hall v. Hall*, 2 M'Cord's Ch. Rep. 273, Stat. of frauds now strictly construed; *Howell v. Howell*, 2 Harper's Equity Cases, 156; *Cornwell v. Spencer*, *Ib.* 258.

The classes of cases under the heads *nudum pactum*, and specific performance, often bear upon this statute. The case of *Hall v. Hall*, 2 M'Cord's Ch. Rep. 273, citing *Cooth v. Jackson*, 6 Vez. 12, and *Givens v. Calder*, 2 Desauss. Eq. Rep. 171, is refreshing to a lawyer; for this salutary statute was in great danger of being frittered away by exceptions so numerous, founded on slight distinctions, that the broad wholesome rule was buried under the exceptions. It is not always that a distinction in circumstances, implies a difference in principle. The French maxim, as reported by Chancellor D'Aguasseau, of making the case bend to the principle, instead of the principle to the case, deserves consideration.

An Act for enabling the Sale of Goods distrained for Rent, in case the Rent be not paid within a reasonable time. 2 Wm. & Mar. ch. 5, 1690.—p. 530. 8 Ann, ch. 14, 1709. 11 Geo. 2, ch. 19.

See Act of Assembly, 17 Dec. 1808; 19 Dec. 1812, tenants holding over; 18 Dec. 1817, holding over. See also, sec. 32 of County-Court Act, 17 March, 1785, and sect. 1 of the Act for recovering fines, 27th March, 1787, as to levying on slaves. See also as to the British Acts in force, *The City Council of Charleston v. Thomas W. Price*, 1 M'Cord's Rep. 302; *Pemble v. Clifford*, 2 M'Cord's Rep. 31. See also, post pages 547 and 572.

See cases: *Himely v. Wyatt et al.* 1 Bay, 101; *Philon v. M'Bride*, 1 Bay, 167; *Bull v. Horlbeck*, 1 Bay, 297; *Jacks v. Smith*, 1 Bay, 310; *Smith v. Sheriff of Charleston*, 1 Bay, 438; *Marshall v. Giles*, 2 Treadw. C. Rep. 637; *Printemps v. Hofried*, 1 Nott & M'Cord, 188; *City Council v. Price*, 1 M'Cord, 299; *Youngblood v. Lowry*, 2 M'Cord, 39; *Pemble v. Clifford*, 2 M'Cord, 31; *Talvande v. Cripps*, 2 M'Cord, 164; *Vause v. Russell*, 329; *Hamilton v. Roedy*, 3 M'Cord, 36; *Talvande v. Cripps*, 3 M'Cord, 147; *Margart v. Swift*, 3 M'Cord, 378; *Bailey v. Wright*, 3 M'Cord, 484; *De Bow v. M'Cleary*, 3 M'Cord, 41, contradicting 1 M'Cord, 302; *Price v. Limehouse*, 4 M'Cord, 544; *Caulfield v. M'Alister*, 4 M'Cord, 378, as to articles exempted; *Blake v. Delessidine*, 4 M'Cord, 496; *Walker v. Johnson et al.* 4 M'Cord, 552; *Brown v. Duncan*, 1 Harper's Rep. 337; *Reeves v. M'Kenzie*, 1 Bail. 497; *Hilson v. Blaine*, 2 Bail. 166; *Trescott v. Smith et al.* 1 M'Cord's Ch. Rep. 486; *O'Farrel v. Nance*, 2 Hill, 484. Replevin may be issued out of the county courts, Sec. 13 of County Court Act of 1721.

The cases under Rent, Landlord and Tenant, Tenant, Distress, Replevin, are

all connected. Such as relate to Landlord and Tenant *generally*, will be found in the notes to 8 Ann. ch. 14, 1709, post, p. 547; and 11 Geo. 2, ch. 19, post, p. 572.

An Act to prevent frauds by Clandestine Mortgages. 4 & 5 Wm. & Mary, ch. 16, 1692. p. 533.

See *ante*, p. 137, the registering and recording Act, entitled An Act to prevent deceits by double Mortgages, &c. passed October 8, 1698.

Act for regulating Trials in cases of Treason and Misprision of Treason.—7 Wm. 3, ch. 3, 1691. p. 539.

Judge Grimke refers to the 43rd and 44th section of the Jury Law of 1731, and to the Sedition Act of 1776: but I apprehend it is doubtful whether any law concerning treason anterior to our Constitution of 1790, can be of force since that time. I know of no treason law in *this State* as yet.

Act to enable posthumous Children to take, &c. 10 & 11 Wm. 3, ch. 16, 1699. p. 542.

See Blackstone's Commentaries, book 1, page 130, and book 2, page 170, with Chitty's notes on the passages. See Code Napoleon, title 7, chapter 1, No. 312. What length of time intervening between the husband's death and the birth of the child, will be allowed to operate in favour of the after-born offspring, I apprehend is not settled in our courts. See 2 M'Cord's Ch. Rep. Burke v. Wilder, 551; M'Elmore v. Blocker, Harp. Ch. Rep. 272; Talbird v. Verdier, 1 Eq. Rep. 592. All the authorities are referred to in Cooper's Justinian, p. 496.

An Act to enable his Majesty's natural born Subjects to inherit the Estate of their Ancestors, either lineal or collateral, notwithstanding their Father or Mother were Aliens. 11. 12 Wm. 3. ch. 6, 1700. p. 542.

For the "King's dominions," substitute "the State of South Carolina."

See the case of *Campbell v. Gordon*, 6 Cranch, 176, 182.

Whether "a natural born subject of a State is under an obligation to perpetual allegiance," is a vexed question; which, with us, has been frequently brought up before the federal courts, but has never been expressly decided, except perhaps in Capt. Williams's case, before Judge Jay, reported in a note in Dallas's reports. See also, Talbot v. Jansen, 3 Dall. 133; Murray v. the Charming Betsey, 1 Cranch, 64; the Sanctissima Trinidad, 7 Wheaton's Rep. 283. The popular leaning of this country is against the obligation to perpetual allegiance; on the broad ground, that as the happiness of the individual is the only natural and reasonable rule of his conduct in the choice of a domicile for life, and as Governments furnish only the public means and motives to that end, each individual should be allowed to choose for himself the government which best suits his inclination and condition: in which case the best government will meet with the most encouragement. The opposite doctrines of England and of America on this subject, constitute the foundation of the national disputes as to the *right of search* for, and imprisonment of, native citizens. Our admission of foreigners under the laws for Naturalization, proves nothing; for it is not *our* business to inquire whether the foreigner applying for admittance, assumes inconsistent obligations; that is his affair.

The case of Capt. Williams implies, that whether a citizen may throw off his allegiance to his native State or not, as a right in theory, the exercise of this right

and the mode of putting off his character as a citizen, must be prescribed by Act of Congress. For the contract has two parties, the State and the citizen; and neither can throw off its obligations, *ad libitum*. The commercial law both of England and of the United States, allows a citizen to acquire a commercial domicile in a foreign country, for purposes of trade.

Since our revolution, the law concerning ALIENS, in this State, has been greatly modified. See Acts of 1806, 1807, p. 59, and Primogeniture Acts of 1791, 1797. Cases relating to Aliens, 2 Bay, 150; the State v. Quanel; Meeks v. Richborough, 1 Mills, 411; Richards v. M'Daniel, 2 Mills, 18; Trezevant v. Osborne, 1 Tread. 61; Groves v. Gordon, 1 Tread. 111; Davis v. Hall, 1 Nott & M'Cord, 294; Richards v. M'Daniel, 1 M'Cord, 187; Annesley v. Timmons, 3 M'Cord, 320; Escheator v. Smith, 452; M'Grath v. Administrators of Robertson, 1 Eq. Rep. 449; Hart et al. v. Executors of Hart, 2 Eq. Rep. 63, 64; Clifton v. Executors of Hay et al. 4 Eq. Rep. 335; Vaux v. Nesbitt, 1 M'Cord's Ch. Rep. 352; Dupont v. Pepper, 2 Harp. Ch. Rep. 6, during 1824; Experte Granstein, Hill's Rep. for 1833, 141.

An Act for the better securing of Rents, and to prevent Frauds by Tenants.—8 Ann, ch. 14, 1709. p. 547.

See the notes to 2 Wm. & Mar. ch. 5, ante, p. 530, and 11 Geo. 2, ch. 19, p. 572, post. The cases relating to Landlords and Tenants generally, not included in the notes to these Acts, are—

Bayley v. Lawrence, 1 Bay, 491; Givin et ux v. Hicks, 1 Bay, 495; Caldwell v. Eneas, 2 Mills, 348; Darby v. Anderson, 1 Nott & M'Cord, 369; Duncan v. Beard, 2 Nott & M'Cord, 400; Darby v. Farrow, 1 M'Cord, 517; Martin v. Murphy, 2 Treadw. 762; M'Willie v. Hudson, 1 Treadw. 119; M'Donald v. Elfa, 1 Nott & M'Cord, 562; Kilgore v. Rabb, 1 Nott & M'Cord, 332; Mavrick v. Gibbes, 3 M'Cord, 214; Bynum v. Clarke, 3 M'Cord, 298; Cripps v. Talverde, 4 M'Cord, 20; Derrill v. Stevens, 4 M'Cord, 59; Cline v. Black, 4 M'Cord, 431; Ripley v. Wightman, 4 M'Cord, 447; Love v. Dennis, 1 Harp. 70; Jones v. Mickle, 1 Harp. 419; Boyd v. Sloan, 2 Bail. 311; Reeves v. M'Kenzie, 1 Bail. 497; Fronty v. Wood et al. 1 Hill for 1833, 165; Cannon v. Hatcher, Ib. 260; O'Farrell v. Nance, 2 Hill's Com. Law Rep. 184.

An Act for punishing accessories to Felonies, &c. 1 Ann, st. 2, ch. 9, 1702. p. 543.

See 1 Bay, Administrator of Whittaker v. English; the State v. Arden, 1 Bay, 480; the State v. Westfield, 1 Bail. 132; the State v. Sims, 2 Bail. 29; the State v. Crank, 2 Bail. 66.

An Act for giving like remedy on promissory notes, &c. 3 and 4 Ann, ch. 9, 1704. p. 544.

See Brishank v. Lestargette, 1 Bay, 110; Holmes v. Hooper, 1 Bay, 158; Ecfort v. Des Coudres & Co. 1 Mill. 69; Ring v. Huntington, 1 Mill. 162; Moodie v. Morrall, 1 Mill. 367; Sharpe v. Bingley, 1 Mill. 373; Simpson's Executors v. Perry, 2 Mill. 31; Rugely v. Davidson, 2 Mill. 33; Pong v. Wade et al. 2 Mill. 183; Harwin v. Lowell, 2 Mill. 193; Gains v. Kendrick, 2 Mill. 339; Wartenburgh v. Lovell, 1 Nott & M'Cord, 85; Stagg v. Pepoon, 1 Nott & M'Cord, 103; Frampton v. Dudley, 1 Nott & M'Cord, 128; Touro v. Cassin, 1 Nott & M'Cord, 173; Peay v. Pickett et al. 1 Nott & M'Cord, 255; Todd v. Twitty, 1 Nott & M'Cord, 264; Rice v. Young, 1 Nott & M'Cord, 438;

Wilson v. Williman, 1 Nott & M'Cord, 443; Colcock et al. v. Garvey, 1 Nott & M'Cord, 233; Roberts v. Stagg, 1 Nott & M'Cord, 430; Wilson v. Mullen, 3 M'Cord, 236; Galpin v. Hard, 3 M'Cord, 394; Hampton v. Blakely, 3 M'Cord, 469; M'Creary v. Juggers, 3 M'Cord, 472; Bank v. Croft, 3 M'Cord, 522; Nixon v. English, 3 M'Cord, 549; Bank v. Habert, 4 M'Cord, 89; Dabboso v. Wheddon, 4 M'Cord, 221; Bank v. M'Willie, 4 M'Cord, 438; Gillespie v. Hannahan, 4 M'Cord, 503; Houston v. Frazier, 1 Harp. 10; Singleton v. Bremar, 1 Harp. 201; Hall et al. v. Howell, 1 Harp. 426; Barret v. May, 2 Bail. 1; Proctor v. M'Call, 2 Bail. 298; Perry v. Mays, 2 Bail. 354; Allwood v. Haseldon, 2 Bail. 457; Horton v. Blair, 2 Bail. 545; Myers v. James, 2 Bail. 547; Brock v. Thompson, 1 Bail. 322; Jackson v. Heath, 1 Bail. 355; Bank v. Myers, 1 Bail. 412; Jersey v. Wilbur, 1 Bail. 453; Johnson v. Harth, 1 Bail. 582; Carter v. Carter, 1 Bail. 217; Corley v. Williams, 1 Bail. 588; Gorse v. Wilson, 1 Bail. 597; Peck v. Wakely et al. 1 M'Cord's Ch. Rep. 43; McNeil v. McDonald, 1 Hill's Com. Law Rep. 1; Sims v. Lyles et al. ib. 39; Benton v. Gibson, ib. 56; Bank of South Carolina v. Flagg, ib. 177; Administrator of Lee v. Ware, ib. 313; Moore v. Haynie, ib. 31; Smith v. Administrator of Cheney, ib. 148. See Act of Assembly 21st December, 1798, 2 Faust, 214. The limitation alluded to in the 2d section of the Act of Ann, is 4 years.

An Act for the better preventing of excessive and deceitful Gaming. 9 Ann, ch. 14, 1710. p. 565. In force by section 11 of the Act of Dec. 12, 1712.

See 16 Ch. 2, ch. 6, and Act of Assembly 19th December, 1816; also, Haskett v. Wootan, 1 Nott & M'Cord, 180, and 4 M'Cord, 211, as to horse racing as within this Statute; Carson v. Rembert, 2 Bay, 560; as to indictments under Act of 1816, see the State v. Reynolds, 2 Nott & M'Cord, 365; and the State v. Rushing, ib. 560; and the State v. Faulkner, 2 M'Cord 438; Atchison v. Gee, as to this Act of Ann being in force, 4 M'Cord, 211; Owen v. Davis, 1 Bail. 315; Allen v. Watson et al. 2 Hill, 319; Administrator of Lee v. Ware, Hill's Rep. for 1833, 313. See ante the notes to 16 Ch. 2, ch. 6, 1664, p. 517.

An Act for rendering the proceedings on Writs of Mandamus and informations in the nature of a Quo Warranto more speedy and effectual, &c. 9 Ann, ch. 20, 1710. See section 11 of the Act of December 12, 1712.

Mandamus does not lie against the managers of Sheriff's elections, the State v. Bruce et al. 1 Treadw. 165; the State v. Mitchell, 2 Treadw. 703, not against the Ordinary; Mandamus to a Commissioner, 1 Bay, 348, 2 Bay, 105; against a Corporation, 2 Bay, 63; *Quo Warranto*, Hayes v. Harley, 1 Mill. 267; the State v. Delessaline, 1 M'Cord, 52; neither Mandamus nor *Quo Warranto* will lie to try the title to a public office, the State v. Champlin, 2 Bail. 220; must lie in the name of the State, M'Cleary v. Delessaline, 1 M'Cord, 35; a State Court cannot issue Mandamus to an officer of the United States, 2 Wheat. 369, 6 Wheat. 598; but a Circuit Court of the United States may issue a Mandamus to a State Court, which refuses to transfer a cause under the Act of Congress, 1 Cooke, 160. See the argument of the Court in the Mandamus case against Amos Kendall, Postmaster, before Judge Cranch, reported in the National Intelligencer of June, 1837.

An Act for the reviving and continuing several Acts therein mentioned, for the prevention of mischiefs which may happen by fire: for building and repairing County Goals: for exempting Apothecaries from serving parish and ward offices, and serving upon Juries: and relating to the returning of Jurors. 10 Ann, ch. 14, 1711.

An Act for repealing a clause in the Statute made in the twenty-first year of the reign of King James the first, entitled an Act for the further description of a Bankrupt, and relief of Creditors against such as shall become Bankrupts; and for the inflicting corporeal punishment upon the Bankrupts in some special cases which makes descriptions of Bankrupts; and for the explanation of the Laws relating to Bankruptcy in case of partnership. 10 Ann, ch. 15, 1711.

An Act to give further time for inrolling such leases granted from the Crown, as have not been inrolled within the respective times therein limited; and for making the pleading of deeds of Bargain and Sale inrolled, and of fee farm rents more easy. 10 Ann, ch. 18, 1711.

These three Acts are so manifestly superceded by modern law practice and legislation, as to be of no validity at present. They are inserted by Grimke under the 11th section of the Act of December 12, 1712.

No. 322. *To put in force in this Province, the several Statutes of the Kingdom of England or South Britain therein mentioned.* Section 5, December 12, 1712, p. 401.

The 5th section of this Act declares that all and every part of the COMMON LAW of England, where the same is not altered by the above enumerated Acts, or inconsistent with the particular constitutions, customs and laws of this Province, excepting so much thereof as hath relation to the ancient tenures which are taken away by Act of 12 Ch. 2, ch. 24, which establishes the tenure by *free and common Socage*, is hereby enacted and declared to be in full force, except that part of the common law that relates to matters Ecclesiastical.

What is meant by the COMMON LAW? I give the meanings of writers of authority.

1st. The collection of unwritten rules, maxims and customs, that obtained force by common usage, among our Saxon ancestors previous to the time of King Alfred. See 1 Blackstone's Commentaries, p. 63-74, in Mr. Peters's edition, with the collected notes and comments of Christian, Chitty and Peters.

2nd. The republication of the *Liberjudicialis*, or *Dombec* of King Alfred, by Edward the Confessor. Ibid. This was the collection that then constituted the Common law or Folericht. Ib.

3rd. Ib. p. 71. "Upon the whole, however, we may take it as a general rule, that the decisions of Courts of Justice, are the evidences of what is Common Law. These decisions are made upon the exercise not of a vague and humoursome but of a sound legal discretion. *Rex v. Willis*, 4 Burr. 2539. *Wilson v. Rastall*, 4 Term Rep. 737. Admitting of argument *ab inconvenienti*, where the law is not yet positively settled by past legal-decisions, but not where the number of decided cases leaves no room for doubt. *Harg. Co. Litt.* 66. *Beard v. Webb*, 2 Bos. and Pull. 109. See note 4 to p. 70 of 1 Bl. Comm. Peters's edition, for arguments on both sides. A sound, legal, discretion! Is not this somewhat like discretionary discretion? Like Dr. Rush's description or definition of disease, morbid action?

4th. In the great case of literary property, *Millon v. Taylor*, 4 Burr. Rep. 2303, the four Judges, Willes, Aston, Yates, and Lord Mansfield, severally gave their respective notions of what constituted COMMON LAW. One declares that the principles of private justice, moral fitness, and public convenience, make Common Law, without a precedent: another that it is drawn from natural and moral philosophy, from the civil and canon law, from logic, from use, custom, and conversation among men, collected out of the general disposition, nature,

and condition of human kind: *a third* says that immemorial usage alone constitutes it: *a fourth*, that it is what is agreeable to the principles of right and wrong, the fitness of things, convenience and policy: *a fifth* declares it is what is to be found in the opinions of lawyers delivered as axioms, or to be collected from universal and immemorial usage; per Lord Kenyon in *Ball v. Herbert*, 3 Term Rep. 361. *Blandell v. Catterall*, 5 B. and Ald. 268. *A sixth* says that common error is a source of common law, *communis error facit jus*, per Holt C. J. *India Co. v. Skinner*, Comberback, 242. Lord Mansfield, in derision of ancient common law decisions, said, "we do not sit here to take our law from Siderfin and Keble," and he proscribed every case in *Bernardiston's Rep.* 2 Burr. Rep. 1142, in note. Of the 12 volumes of modern reports, how many are law? Look also at Greenleaf's collection of cases doubted, denied and overruled.

Who can say after this, that there is any precise meaning to be annexed to the phrase continually in the mouth of every lawyer, the *Common Law*? I feel myself therefore at liberty to offer my own definition of it.

Common Law, is all that part of the Law, which is not expressly enacted as Statutory Law, by the Legislature. All that is anterior to 1225, and every thing subsequent not expressly enacted by Act of Assembly. And it comprises all the customs, usages, and practice of Law in the Courts, whether to be found in books or not; and all the Judge-enacted law to be found in the books of reports of common and chancery law; and in the treatises that have received the positive sanction of Courts of Law; as Littleton's Tenures, Coke's Commentary on Littleton, &c. &c. Nine-tenths of what usually and technically is considered as comprised in the term common law, consists of the decisions of the Courts—judge-made law, which is made common law by the courtesy of Westminster Hall, and the obsequious acquiescence of our American Courts. Those decisions, notwithstanding about 1500 doubts and denials up to the present day, comprize a vast body of useful, practical good sense, intermixed with no small proportion of technical quibble, absurdity, and chicane. Lord Bacon called aloud for a codification of the law in his day (he died 1626:) at present the general opinion of the Bar is decidedly adverse to such an attempt in England and this country; whether this prevailing opinion be based on any well-founded experience of the inutility of codes, digests, and condensation—on any plain argument that the public would lose, by getting rid of fiction, falsehood, verbiage, repetition, and technical obscurity—remains yet to be shewn. I incline to think that two persons could well digest into plain and intelligible propositions the whole of our statute law, in two years: that our chancery law would require equal care and labor: and our common law in its broad acceptation, as much. Our criminal law might occupy one person for one year. Whether the result would justify the expense, may be a matter of doubt. At present, the law puts on too much of the character of MYSTERY.

By this 5th section, the CHANCERY LAW of England is in like manner adopted. Chancery is a Court where the complainant and defendant commence litigation by bill, and by an answer thereto on oath. It is a Court resorted to, to get at the necessary facts through the parties to the suit, who are compelled to answer upon oath, interrogatories embracing the whole case.

The Chancellor claims 1st, Common Law jurisdiction. 2nd, Equity jurisdiction. 3rd, Statutory jurisdiction. 4th, Especial delegated jurisdiction.

First, as to common law jurisdiction. See Maddock's treatise on the principles and practice of the high Court of Chancery, vol. 1, and Mr. Cooper's history of the Court of Chancery, 1828.

Secondly, to equity jurisdiction. Accident. Fraud. Account, superceding the old action of account-render. General guardianship of infants. Specific performance. Trust. In the three first of these, common law claims jurisdiction also. The bill of peace; and the bill to cancel deeds and documents may be added here.

Thirdly, statutory jurisdiction. Bankruptcies. Tythes. Jews. Our more cautious and liberal Legislation excludes these subjects. Trusts including public charities and corporations. Infant Trustees. Mortgages. See several other classes enumerated in Parke's history of the Court of Chancery, 424.

Fourthly, specially delegated jurisdiction. Idiots and Lunatics. Censor Morum. Licensor of the Press. See on this last head the class of cases decided by Lord Eldon, in the very essence and spirit of judicial bigotry and absurdity, of which the injunction case of *Lawrence v. Smith*, March 1822, is a leading decision.

The Wellesby case, and that of *Blythe Shelly*, establish the Chancellor's jurisdiction as Censor Morum. The power of the Court may be doubted in these cases: but there can be no doubt it was extended beyond what we of this country should have submitted to. I am not prepared to object to the principle. Whatever doubts there may be as to the meaning and definition of *Common Law*, something of the "palpable obscure" rests over *Equity* also.

From 1 Blacks. Comm. Intr. Sec. 2 and 3.

Equity thus depending essentially on the particular circumstances of each individual case, there can be no established rules and fixed principles of Equity laid down without destroying its very essence and reducing it to positive law.

What Equity is, and how impossible in its very essence to be reduced to stated rules, hath been shewn in the preceding section.

By Lord Ch. J. *Vaughan*; argument on the case in Chancery, term. pasch. 22 ch. 2. See Parke's Hist. of the Court of Chancery, p. 459.

I wonder to hear of citing of cases of Presidents in matters of Equity: for if there be equity in a case, that equity is an universal truth and there can be no president in it. So that in any president that can be produced, if it be the same with this case, the reason and equity is the same in itself: and if the president be not the same case with this, it is not to be cited, as being nothing to the purpose.

The Roman Prætors published in an *Album*, the rules and maxims by which their decisions would be guided. This was much approved by Lord Bacon, *De aug. scient.* L. 8, ch. 3, 46. But in the code Napoleon, *Tit. prelim. Art. 5.* Il est defendu au juges de prononcer par voie de disposition generale et reglementaire, sur les causes que leur sont soumises.

From 3 Blacks. Comm. ch. 27.

Once more it hath been said that a Court of Equity is not bound by rules and precedents, but acts from the opinion of the Judge founded on the circumstances of each particular case. Whereas the system of our Courts of Equity, is a laboured connected system, governed by established rules and bound down by precedents, from which they do not depart, although the reason of some of them may perhaps be liable to objection.

Per Lord Keeper Bridgeman. Parke's Hist. of the Court of Chancery, 459.

Certainly precedents are very necessary and useful to us, for in them we may find the reason of the equity to guide us. And besides, the authority of those that made them is much to be regarded. We should suppose they did it on great consideration, and weighing of the matter: and it would be very strange and very ill, if we should disturb and set aside what hath been the course for a long series of time and ages.

But discretionary power, as Lord Camden observes, is the law of tyranny. And the good sense of modern times regards Equity as a system of rules of practice, and general maxims, deduced from the experience and known bearing of repeated and well-considered decisions; admitting of somewhat more latitude (of necessity) than the *stare decisis* maxim of the Common Law; but still making past experience the basis of present decision, and limiting as far as possible the wanderings of mere discretion. We resort to Equity now, chiefly from the convenience of its practical forms, opening the doors for the admission of truth, which Common Law too tightly closes. If the *viva voce* examination and cross examination of the parties were admitted into practice, the improvement would in my opinion be invaluable. See review of Bentham on Judicial Evidence, in the 5th volume of the Southern Review.

No. 323. *An Act for settling the Titles of the Inhabitants, &c.* Dec. 12, 1712. p. 583. *Limitation Act.*—Limitations previous to this Act:

Offences and Prosecutions.—Blasphemy Act of May 6, 1703. Sunday Act, Dec. 12, 1712, sect. 11. Profane swearing, 6 & 7 Wm. 3, ch. 11, sect. 5, 1695. Making false entry: 8 Rich. 2, ch. 4, 1384. Wrongful disseisin: 32 Hen. 8, ch. 33, 1540: Hue and Cry Act: 27 Eliz. ch. 13, sect. 9, 1585. Arson; 22 & 23 Chas. 2, ch. 7, 1670. Treason: 7 Wm. 3, ch. 3.

Limitations as to Civil Suits.—As to marriage, in case of absence: 1 Jas. 1, ch. 11, 1602. Account books produced in evidence: 7 Jas. 1, ch. 12, 1609. Gaming: 16 Chas. 2, ch. 6, 7, 1664. Statute of Distributions: 22 & 23 Chas. 2, ch. 10, sect. 8, 1670. Parol Leases of 3 years: 29 Chas. 2, ch. 3, 1672. Probate of Nuncupative Wills and letters testamentary: 29 Chas. 2, ch. 3, sect. 21, 1672. To redeem first Mortgages: 4 & 5 W. & M. ch. 16, sect. 2, 1692. Seamen's wages: 4 Ann, ch. 16, sec. 19. Habeas Corpus Act, sec. 17, 31 Chas. 2, 1674.

See Act of Assembly 29th May, 1744; Ordinance of March 26, 1784; Acts for suspending Limitation Act, 29th Feb. 1788, and 7th March, 1789; 19th Feb. 1791; Hotch-potch Act of 1824, sect. 5, 7.

This Act does not bar the State: *Harlock et al. v. Jackson*, 1 Tread. 135; and the State *v. Arledge*, 2 Bail. 401. As to section 10 of this Act (persons out of this State) see *ante*, 4 Ann, ch. 16, sect. 19.

Possessory title to Lands of five years given by section 2 of this Act, altered to ten years by the Hotch-potch Act of 1824, (pamphlet laws, p. 24,) sect. 5 & 7.

The cases on the Statute of Limitation are:

As to suits for *land*—*Anderson v. Gilbert*, 1 Bay, 368; *Rochelle v. Holmes*, 2 Bay, 487; *Fewell v. Collins*, 1 Tread. 202; *Faysoux v. Prather*, 1 Nott & M'Cord, 296; *Grimke v. Brandon*, 1 Nott & M'Cord, 363; *Mitchell v. Poyas*, 1 Nott & M'Cord, 86; *Cook v. Wood*, 1 M'Cord, 139; *Turnipseed v. Busby*, 1 M'Cord, 279; *Edson v. Davis*, 1 M'Cord, 535; *Thompson v. Caldwell*, 2 M'Cord, 390; *Gibson v. Taylor*, 3 M'Cord, 451; *M'Cullough v. Speed*, 3 M'Cord, 455; *Howard v. Aiken*, 3 M'Cord, 467; *Wilkins v. Tart*, 3 M'Cord, 518; *Lahiffe v. Smart*, 1 Bail. 192; *Guphill v. Isbell*, 1 Bail. 230; *Southgate v. Goldthwaite*, 1 Bail. 367; *Porter v. Maxwell*, 1 Bail. 68; the State *v. Arledge*, 2 Bail. 441; *Markley v. Amos*, 2 Bail. 662; *Higginson v. Air et al.* 1 Eq. Rep. 427; *Wamburzee et al. v. Kennedy et al.* 4 Eq. Rep. 476; *Saxon et ux v. Barksdale et al.* 4 Eq. Rep. 522; *Fisher's Executors v. Tucker's Rep.* 1 M'Cord's Ch. Rep. 169; *Bearfield v. Stevens*, 2 Harp. Ch. Rep. 52; *Richards v. M'Kee*, 2 Harp. Ch. Rep. 184; *Bond v. Brown*, ib. 270; *Lyles v. Lyles*, ib. 288.

As to action brought for *personal property*. *Hopkins v. M'Pherson*, 2 Bay, 194; *Compy v. Aiken*, 2 Bay, 481; *Avaunt et ux. v. Sweet*, 2 Bay, 528; *Executors of Laver v. Parker*, 1 Mill. 168; *Executors of Gray v. Kernahan*, 2 Mill, 67; *Briggs v. Executors of Starke*, 2 Mill. 111; *Executors of Taylor v. M'Donald*, 2 Mill, 178; *Jamison v. Executors of Carmichael*, 2 Mill, 206; *Administrators of Adanson v. Smith*, 2 Mill, 260; *Madden v. Madden*, 2 Mill, 350; *M'Dowall v. Godwyn*, 2 Mill, 441; *Wilson et al. v. Ramsay*, 1 Nott & M'Cord, 109; *Faysoux v. Prather*, 1 Nott & M'Cord, 296; *Burden v. M'Elhenny*, 2 Nott & M'Cord, 60; *Boyd v. Carmichael*, 2 Nott & M'Cord, 62; *Moses v. Jones*, 2 Nott & M'Cord, 259; *Thompson v. Stevens*, 2 Nott & M'Cord, 493; *Robson v. Wall*, 2 Nott & M'Cord, 498; *Miller v. Executors of Fisk*, 1 M'Cord, 50; *Jones v. Dugan*, 1 M'Cord, 429; *Betts v. Fuller*, 1 M'Cord, 544; *Zeigler v. Hunt*, 1 M'Cord, 577; *Axon v. Blakely*, 2 M'Cord, 6; *Richardson v. Whitfield*, 2 M'Cord, 149; *Forbes v. Foot*, 2 M'Cord, 334; *Harrel v. Kelly*, 2 M'Cord, 426; *the State v. Mazyck*, 2 M'Cord, 473; *the State v. Taylor*, 2 M'Cord, 483; *Veal v. Hassan*, 3 M'Cord, 278; *Bank v. Baker*, 3 M'Cord, 281; *Vestry v. Canty*, 3 M'Cord, 317; *Barino v. M'Gee*, 3 M'Cord, 452; *M'Cullough v. Speed*, 3 M'Cord, 455; *Lee v. Perry*, 3 M'Cord, 552; *Jamison v. Lindsay*, 4 M'Cord, 93; *Ingram v. Porter*, 4 M'Cord, 198; *Lee v. Polk*, 4 M'Cord, 215; *Turnbull v. Strohecker*, 4 M'Cord, 210; *Geiger v. Brown*, 4 M'Cord, 423; *Meek v. Atkinson*, 1 Bail. 84; *Kitchens v. Craig*, 1 Bail. 119; *Southgate v. Goldthwaite*, 1 Bail. 367; *Hunter v. Glen*, 1 Bail. 542; *Moore v. Barry*, 1 Bail. 504; *Sollee & Warley v. Mengy*, 1 Bail. 620; *Marvin v. Tillman*, 1 Bail. 441; *Motley v. Montgomery*, 2 Bail. 11; *Wright v. Hamilton*, 2 Bail. 51; *Griffin v. Heaton*, 2 Bail. 58; *Levy v. Boas*, 2 Bail. 217; *Young v. Monposy*, 2 Bail. 278; *Cohen et al. v. Aubin*, 2 Bail. 283; *Trammel v. Salmon*, 2 Bail. 308; *Lowry v. Dubose*, 2 Bail. 425; *Witt v. Elmore*, 2 Bail. 505; *Nicks v. Martindale*, 1 Harp. 135; *Pierce v. Zimmerman*, 1 Harp. 305; *Newcomb v. Neil*, 1 Harp. 355; *Glen v. McCullough*, 1 Harp. 484; *Jones v. Mickle*, 1 Harp. 419; *Beresford v. Elliot*, 1 Eq. Rep. 186; *Higginson v. Air et al.* 1 Eq. Rep. 427; *Gist v. Cattel*, 2 Eq. Rep. 53; *Somers v. Smith et al.* 2 Eq. Rep. 215; *Walter v. Radcliffe*, 2 Eq. Rep. 3577; *Ramsay v. Deas*, 2 Eq. Rep. 233; *Fraser et al. v. M'Pherson*, 3 Eq. Rep. 414; *Bayle v. Rowand*, see note to p. 556 of 3 Eq. Rep.; *Thompson v. Wagner*, 3 Eq. Rep. 94; *Croft v. Arthur et al.* 3 Eq. Rep. 223; *Wamburzer et al. v. Kennedy et al.* 4 Eq. Rep. 474; *Hutchinson v. Hutchinson*, 4 Eq. Rep. 77; *Hughson v. Mandeville*, 4 Eq. Rep. 91; *Irby v. M'Crae*, 4 Eq. Rep. 422; *Myers v. Skrine*, 2 Harp. Ch. Rep. 179; *Fisher's Executors v. Tucker's Rep.* 1 M'Cord Ch. Rep. 169; *Van Rhyn v. Vincent's Executors*, 1 M'Cord Ch. Rep. 314; *Screven v. Bostick*, 2 M'Cord's Ch. Rep. 418; *Swift v. Lanier*, 1 Hill, for 1833, p. 31; *Peters v. Barnhill*, ib. 234; *Treasurer v. Barksdale*, ib. 272; *Fitch v. Hilleary*, ib. 292; *Miles v. Berry*, ib. 296; *Gregg v. Bigham*, ib. 299.

As to prosecutions for *offences*. *State v. Youngblood*, 2 M'Cord, 241; *State v. Fields*, 2 Bail. 554; *Stewart v. Fowler*, 1 Harp. 403.

Seemle, that war suspends the operation of this Statute of limitation, 1 Nott & M'Cord, 576, 2 M'Cord, 26. As to section 6 of this Act, it has been determined in England, 2 Burr. 95, 2 Bl. Rep. 207, that the time when the writ is actually taken out, is to be regarded as the commencement of the action.

As to the 16th section of this Act relating to *feme covert*s, see the case of *Guphill v. Isbell*, 2 Bail. 349.

(The following is extracted from number 1608 of the South Carolina Gazette revived, dated "Thursday, Oct. 31, 1765, to Monday, June 2, 1666." I refer to this Presentment, principally on account of the *FOURTH* article. But there are so many allusions to the customs and habits of that day, that I am of opinion the public will forgive me for inserting the whole Presentment.)

SOUTH-CAROLINA.

The Presentments of the Grand Jurors for the body of this Province, at a Court of General Sessions of the Peace, Oyer and Terminer, Assize and General Goal delivery, begun and holden in Charlestown, the 16th day of October, in the year of our Lord one thousand seven hundred and sixty-five.

I. We present as a very great grievance, the want of county Courts being established for the ease of the inhabitants of the back parts of this Province, as in other of his Majesty's northern Provinces.

II. We present as a grievance, the hardship of calling constables from the back settlements of this Province, to tend upon Courts in Charlestown.

III. We present as a very great grievance, the want of a publick Goal, as the present is quite insufficient to answer the end proposed.

IV. We present as a very great grievance, which calls loudly for redress, the want of a digest of the several Acts of Assembly of this Province; and also a printed edition of them all in regular order, and under proper titles, with an accurate and copious index; for want of both which, his Majesty's subjects in general are very ignorant of the local laws.

V. We present the great neglect of the Militia law, the people in the country not mustering often; we also complain of the neglect of not carrying arms to church and other places of worship; and against the bad custom of delivering their arms to negroes or other slaves, to keep while they are at divine service.

VI. We present as a grievance, the want of a law to oblige the inhabitants of Charlestown to carry arms to church on Sundays, or other places of worship.

VII. We present as a general grievance through the Province, the want of a patrol duty being duly done, and submit it to the Legislature whether a provincial or parochial tax to support the expense of a standing patrol, to be constantly on duty, would not better answer the intentions of apprehending fugitive slaves; and that all fugitives after so many months absence should be deemed out-laws, and subject to death without sentence or expense to the Province.

VIII. We present it as a grievance, the too frequent abuse of the law relative to the keeping a proper number of white men on plantations, according to the number of blacks.

IX. We present as a grievance the too frequent liberty given to negroes in the country to make use of fire arms.

X. We present that the negro law is not put into strict execution, and that the slaves in Charlestown are not under a good regulation, and that they at all times in the night go about the streets rioting, that they do often gather in great numbers on the sabbath day and make riots, where it is not in the power of the small number of watchmen to suppress them, which we fear may, without any precaution, prove of the utmost ill consequence to this Province.

XI. We present it as a grievance, the want of a proper house of correction in Charlestown; the work-house, now used for that purpose, being insufficient, whereby notorious bawds, strumpets, vagrants, drunkards, or idle persons, who might be there committed, reign and infest the said town with impunity.

XII. We present it as a grievance, the number of licensed tippling and other houses in Charlestown, selling spirituous liquors to sailors and negroes, which is productive of many evils, such as receiving stolen goods.

XIII. We present as a grievance the want of a new jury list, as the publick duty falls too often on the same persons in Charlestown and elsewhere.

XIV. We present it as a great grievance, the want of a law to regulate the rates of wharfage in Charlestown, as well as the scales and weights on the said wharfs; for want of which many unreasonable exactions and impositions are sustained by the trading and planting interest in this Province; the charges on

wharfage of many articles being greatly increased within these few years past, and, unless limited by a law, it is apprehended, will grow to an intollerable height of extravagance, and greatly oppressive to trade.

XV. We present it as a grievance, the want of a proper officer, whose whole business it shall be, to see that the fire-wood sold in Charlestown, be duly measured, and to prevent forestalling the same to the great detriment of the poor.

XVI. We present as a very great grievance, the great number of counterfeit public orders that are frequently passed in the back parts of this Province, to the great detriment of the poor inhabitants, who frequently take such bills as good, and give in exchange gold and silver for them; and we would beg leave to recommend to the legislature, that in future marbled paper may be sent for to be used when any public orders or bills are to be issued by the public.

XVII. We present it as a great prievance, that part of the highway, commonly called Ashley river road, leading from the plantation of Mr. William Elliott to the Old Quarter-house, and also that part of the road leading into Goose Creek parish, as far as the plantation of Mr. John Ernest Poyass, being totally neglected for many years past, the same being almost obstructed with trees and shrubs, growing within the limits of the said road.

XVIII. We present Simon Long, in Colleton Square, for keeping a disorderly house, and selling liquors to negroes (by the information of George Noddings.)

XIX. We present Daniel Gullet, of Indian creek, Berkley county, for harbouring horse-stealers and other villains (by the information of Isachar Wilcox of same place.

XX. We present Abraham Gin and Martha Hunter, on Broad river, Craven county, for living in adultery (by the information of Bartholomew Austin, constable.)

XXI. We present Dr. Cholmondeley Dering and Margaret Duthy for living together in Charlestown, in an unlawful manner, and having a bastard child (by the information of James Skirving, Esq.)

XXII. We present Messrs. Morton Wilkinson, Thomas Shann, and James Gilchrist Simpson, commissioners of Wallace's causeway, in St. Paul's parish, for not keeping it in proper order (by the information of Benjamin Elliott, Esq.)

XXIII. We present Messrs. Thomas Mitchell, Paul Trapier, Elias Horry, George Gabriel Powell, William Jamieson, Joseph Allston, and Josiah Allston, commissioners for Lynch's causeway, Craven county, for not keeping the bridges and slip in proper order (by the information of Francis Kinlock, Esq.)

XXIV. We present Messrs. Daniel Blake, William Sanders, James Sanders, Michael Geiger, John Ioor, jun. William Ioor, James Smith, Stephen Cater, Barnaby Branford, John Ainslie, and John Waring, commissioners of the high roads in St. George's parish, Dorchester, for their neglect of the roads at a place called *The Cypress* and places adjacent, it being impassable for carriages (by information of Tacitus Gaillard, Esq.)

XXV. We present as a very great grievance to this Province, that too little regard has frequently been paid to the presentments of the Grand Jurors.

XXVI. We beg leave to recommend to his honour the Chief Justice, that the foregoing presentments be printed in full in both the Gazettes.

<i>Samuel Porcher</i> , (L. S.)	<i>Luke Stoutenburgh</i> , Foreman, (L. S.)
<i>James Moore</i> , (L. S.)	<i>William Gibbes</i> , (L. S.)
<i>Nath. Bradwell</i> , (L. S.)	<i>Thomas Farr, jun.</i> (L. S.)
<i>Isaac Rivers</i> , (L. S.)	<i>Francis Kinloch</i> , (L. S.)
<i>Peter Sinkler</i> , (L. S.)	<i>Benjamin Mazyck</i> , (L. S.)
<i>James Guerry</i> , (L. S.)	<i>Robert Brisbane</i> , (L. S.)
<i>Dan. Ravenell, jun.</i> (L. S.)	<i>Frederick Grimke</i> , (L. S.)
<i>David Batcheller</i> , (L. S.)	<i>John Paul Grimke</i> , (L. S.)
<i>Christ. Wilkinson</i> , (L. S.)	<i>Samuel Elliott</i> , (L. S.)

On Friday the 1st of November, 1765, being the adjournment of October sessions, the Court having taken under consideration the presentments of the Grand Jury, made the following orders thereon, viz :

1st. *Ordered*, That this presentment be laid before the Legislature.

2d. *Ordered*, The constables are officers of this Court, and are by law obliged to give their attendance thereon once a twelvemonth.

Ordered, That this presentment be laid before the Legislature.

3d. *Ordered*, That this presentment be laid before the Legislature.

4th. The Court hath long regarded, with very great concern, the grievance here presented, and doth most earnestly recommend it to the particular attention of his honour the Lieutenant Governor and the other branches of the Legislature.

5th. *Ordered*, That this presentment be laid before the Legislature.

6th, 7th, 8th, 9th, 10th, 11th, 12th, 13th, 14th, and 15th. *Ordered*, That these presentments be laid before the Legislature.

16th. *Ordered*, That this presentment be laid before the Legislature, and that it be earnestly recommended, and given in charge to all magistrates, constables and other peace officers, throughout the Province, and more especially in the back settlements, that they be very vigilant, and use their utmost endeavours, in having all persons guilty of the offence here presented, brought to public justice.

17th. *Ordered*, That the commissioner or commissioners of the roads here presented, do shew cause by or before the first day of March sessions, why an information should not be filed against him or them, for not keeping the said roads in proper repair.

18th. *Ordered*, That his Majesty's Attorney General do proceed against Simon Long for the offence here presented, in such manner as to him shall seem most proper; and that, in the mean time, process do issue against the said Simon Long, to oblige him to come in and plead to, and answer the said presentment.

19th. *Ordered*, That his Majesty's Attorney General do proceed against Daniel Gullet for the offence here presented, in such manner as to him shall seem most proper, and that in the mean time process do issue against the said Daniel Gullet, to oblige him to come in and plead, and answer the said presentment.

20th. *Ordered*, That his Majesty's Attorney General do proceed against Abraham Gin and Martha Hunter for the offence here presented, in such manner as to him shall seem most proper, and that in the mean time process do issue against the said Abraham Gin and Martha Hunter, to oblige them to come in and plead to, and answer to the said presentment.

21st. *Ordered*, That his Majesty's Attorney General do proceed against Dr. Cholmondely Dering and Martha Duthy for the offence here presented, in such manner as to him shall seem most proper, and that in the mean time process do issue against them to oblige them to come in and plead to, and answer the said presentment.

22d. *Ordered*, That the commissioners here presented do shew cause, by or before the first day of next March sessions, why an information should not be filed against them for not keeping Wallace's cause-way in proper order.

23rd. *Ordered*, That the commissioners here presented do shew cause, by or before the first day of next March sessions, why an information should not be filed against them for not keeping the bridges and slip of Lynch's cause-way in proper order.

24th. *Ordered*, That the commissioners here presented do shew cause, by or before the first day of March sessions next, why an information should not be filed against them for not keeping that part of the road herein mentioned in proper order.

25th. *Ordered*, That this presentment be laid before the Legislature.

26th. *Ordered*, That the Clerk of this Court do furnish both the printers with copies of the presentments of the Grand Jury for the present sessions, together with the orders made thereon, in order to their being printed.

By order of the Court.

D. CAMPBELL, C. C. & P.

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